EU-C - Arbitration

PROVING YOUR ARBITRATION CASE

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School for Workers

January, 1961

CONTRACT ADMINISTRATION
Arbitration

1. What is arbitration?

Stated very simply, arbitration is a process whereby persons party to a dispute agree to submit their differences to a third party, and agree to abide by the decision of the "third party." For example, a husband and wife might have a dispute over how many nights a week the husband should go bowling. Instead of going to the divorce courts, they may agree in advance to lay all of the facts in front of their minister, for example, and have him make a ruling which they agree in advance they will abide by.

In the beginning, labor arbitration was almost as simple and informal. When a union and an employer could not agree on how a particular clause in a contract should be interpreted, they would seek out some fair-minded person in the community, and ask him to decide for them. The process is still basically the same today, except that most arbitration proceedings are considerably more formal (and legalistic) than the type described above. Arbitration, then, is an extension of the collective bargaining process. But instead of arguing with each other, the union and the company try to develop arguments to convince an arbitrator - a person outside of the collective bargaining relationship - that he should decide in their favor. It is an "appeal to reason" - reason being that the contract should be interpreted in our favor.

There are different types of arbitration.

a) "Open end" arbitration, voluntary or compulsory. This is the type of arbitration whereby the arbitrator is empowered to determine what the agreement between the parties should contain...for example...

how much of a wage increase is the union entitled to this year? This type of arbitration is rare in the United States. It is employed, generally, only in those industries where the union, voluntarily or because of law, is denied the right to strike.

b) Contract interpretation. This type of arbitration applies to the interpretation, by a neutral person, of the meaning of an already-existing collective bargaining agreement. Because such arbitration consists of determining the rights of a party to an agreement, it is referred to in arbitration terminology as a "rights dispute." This type of arbitration is usually voluntarily, and use of it stems from the language contained in the agreement itself. For example:

> "A claim made in good faith that either the Company or the Union has violated some provision of this contract or failed to perform some obligation assumed under this contract is an arbitrable grievance within the meaning of the contract. Any such grievance which is not disposed of in Step 3 of the Grievance Procedure as provided in Article VII of this contract may be submitted to final and binding arbitration by either the Company or the Union, provided such appeal to arbitration is made by giving written notice to the other party within thirty (30) calendar days after the final meeting under Step 3 is held."
>
> (Cutler-Hammer, Inc. and International Association of Machinists)
>
> "If a decision in the third step of the grievance procedure is not acceptable, the grievance may be referred to arbitration by mutual consent of the Company and the Union involved. Grievances to be referred to arbitration must be appealed within fifteen (15) days of the date on which a decision was rendered in the third step of the grievance procedure."
>
> (David Bradley Mfg. Works and International Brotherhood of Boiler Makers, Iron Ship Builders, Blacksmiths, Forgers and Helpers)

Sometimes a permanent arbitrator (or"umpire") is selected by the parties to an agreement to hear all dispute cases arising out of a particular labor contract. More commonly, an arbitrator is selected for each case on an individual or "ad hoc" basis. In almost all contracts which include arbitration as the final step in the grievance procedure, the parties agree that the decision of the arbitrator will be final and binding. This means the union can't go on strike if it dis-

agrees with the arbitrator's decision; it also means, in general, that the parties will not go to court in order to overturn a particular arbitration decision.

2. Advantages of having an arbitration clause in your agreement.

a) When combined with a definite time limit, an arbitration provision means that the company cannot delay giving the union an answer to a particular grievance beyond a certain point. After a certain number of days, the union can insist upon arbitrating the dispute, and getting a final answer.

b) The union does not have to strike in order to settle important grievances. Frequent strikes can wear down membership and the treasury; after a number of strikes over grievances have occurred, it may be difficult to obtain a strike vote in a crucial situation. Arbitration is simpler, and generally much less expensive than going on strike.

c) It is much easier to convince the membership that it is necessary to arbitrate a particular grievance than it is to get them to agree that they should strike in order to get it settled.

d) Arbitration involves far fewer legal problems than a strike does. Even when you have the right to strike under the contract, you have to be very careful that the proper notice has been given to the company and to the appropriate state and federal government agencies.

3. Problems which arise in connection with arbitration.

a) The union can lose an arbitration case, even when it has the facts to back up its case, and it presents its side of the story in good fashion; sometimes the reverse is true. But the risk of losing must be recognized.

b) Arbitration has become very expensive. Besides the arbitrator's fees and travel allowances, there are often additional expenses (transcripts, lawyers' fees, lost time, etc.)

c) Arbitration has become formal and legalistic. This means a great deal of time and attention must be devoted to the preparation of an arbitration case. Briefs must be filed, witnesses called, affidavits prepared, etc.

d) Very often a great deal of time elapses between the time the union decides to arbitrate a case and the final decision is rendered by the arbitrator.

For some additional information relating to the problems associated with arbitration, see page 4A.

4. Alternatives to arbitration.

a) The strike. We have already discussed some of the problems associated with striking over unresolved grievances. But some unions feel that there are some grievances which are so important they cannot trust a third party to render a decision. Sometimes the precedent set by the decision is just as important as what the arbitrator decides in a particular case. An alternative approach is to have a choice as to the final disposition of a grievance - arbitration or the right to strike. Sometimes particular areas of the agreement cannot be arbitrated. For example:

> "The functions of the Board of Arbitration shall be of a judicial rather than a legislative nature and such Board shall not have the power to add to, disregard or modify any of the terms and conditions of this Contract, nor shall such Board pass upon issues involving increases or decreases of occupations, group, or general wage rates, nor upon any issue involving the right of the Company to exercise the functions of management as set forth in Article VII, 'Functions of Management,' herein."
>
> International Harvester Company and United Steel Workers

Let's take another case which arose at a plant in a small, off-the-beaten-track-town. The contract called for a three-man arbitration board--one selected by the union, another by the company and the third man agreed upon by the first two or appointed after an interval of time by the American Arbitration Association. The grievance involved eligibility of senior employees for the first crack at available overtime. The company's lawyer and the union's lawyer were both in large cities many miles away from the plant site. The grievance reached the stage of arbitration in February 1957. It took the lawyers only a week to agree on the arbitrator, but the arbitrator had a busy schedule and the hearing wasn't held until, let's say, March 20.

The arbitrator lived about 400 miles from the plant. The lawyers were even farther away. Each lawyer acted as his client's member of the Arbitration Board and presented his client's case. The hearing lasted a single day.

About a month after the hearing was over, the arbitrator wrote both counsels and said he'd like to have a meeting of the arbitration board to discuss the decision. The three men assembled again, traveling long distances to a common meeting ground. The arbitrator distributed his proposed findings of fact - a prolix rehash of the record - and asked each counsel to concede the accuracy of the factual statement. This was not difficult since the statement included, without evaluation and with very little effort at condensation or selection, almost every fact and conflicting fact placed in the record. But another day was shot.

Then the arbitrator said he would return to his office and prepare a digest of the opposing parties' contentions as set forth in their briefs and distribute the digest to counsel for comments. Both counsels assured the arbitrator that this additional, intermediate step between hearing and final award was unnecessary and that each was quite content by now just to get the decision. The arbitrator said no, that in a case of this importance where his decision was likely to be published, he wanted to be very careful that his findings of fact and interpretations of the parties' respective positions were accurate. Since, naturally, neither counsel wanted to offend the arbitrator, they reluctantly agreed.

The arbitrator labored mightily and not long before Christmas - nine months after the grievance reached arbitration - he brought forth his mouse: a 40-page decision summed up in one sentence at the last saying the union was right.

Of course, along with this mammoth work of art came the bill: 15 days at $100 a day, plus $260 travel expense.

The union paid $880 for the dubious privilege of obtaining $192 in back overtime pay for sixteen members - about $12 a piece. In addition, of course, it had to pay its own lawyer, and its half of the transcript cost.

In a recent review of three years of arbitrations, one union found that the average cost to the union of a formal arbitration was $1,500, more than half of which went to pay for the arbitrator and transcript.

One partial solution may be to get back to the one-year contract principle.

b) Grievance settlement during contract negotiations. This approach is practical only where the contract is of short duration - for a year or eighteen months. If the contract is for a longer period of time, such as two or three years, it is very difficult to hold off on the settlement of grievances until the contract is about to expire. On the other hand, where you have a short-term contract, or the grievances with which you are concerned have taken place close to the expiration date of the collective bargaining agreement, this approach is more meaningful. What it boils down to is this: instead of taking unresolved grievances of great importance to arbitration, the union makes disposition of these grievances part of its bargaining demands - at a time when it has the right to strike in order to support its demands. In effect it says to management:

> "unless we settle these grievances, we cannot reach a contract settlement."

During contract negotiations the union also has the opportunity to change contract language to take care of situations not clearly covered by the agreement but which are the subject of numerous grievances on the part of its membership. For example, there may be a dispute over the computation of holiday pay, where the contract is vague. This can be resolved by negotiating clear, concise language to cover this situation.

5. When to go to arbitration.

Every union faces this problem on many occasions. Arbitration is no longer simple or cheap; therefore, most unions will use the arbitration procedure in their collective bargaining agreement rather sparingly. Even if arbitration were cheap and simple, the union would approach arbitration

gingerly. If every dispute were decided by an outsider, the whole process of collective bargaining - where the company and the union get together and hammer out an agreement - would become a sham, since each party, and especially the weaker party, would continuously resort to arbitration as a substitute for its own strength or initiative.

Before going to arbitration, the union should ask itself several questions:

a) Is the dispute arbitrable? Most contracts specify the scope of the arbitration procedure and the arbitrator's decision. In most cases, this means that arbitration is limited to an interpretation of the existing agreement; the arbitrator cannot add to or take anything out of the contract. [In almost all instances, discharge and disciplinary cases are arbitrable.]

Sometimes specific subjects are excluded from arbitration by the agreement. For example:

> "The following matters shall not be subject to arbitration:
>
> (a) Matters not specifically covered by the agreement.
>
> (b) General wage rates established and made a part of this Agreement. However, either a job rate or a job base rate, whichever is applicable, for a new job classification being established in accordance with Section 8.7, Article 8 herein, is subject to arbitration.
>
> (c) Incentive time limits."

(Beloit Iron Works and International Association of Machinists)

What K clauses apply

The provisions of the agreement itself are limiting factors in the determination of whether a grievance is arbitrable. For example, a seniority grievance would, in all likelihood, be governed by the following contract provisions:

i. The recognition clause.

ii. The grievance procedure

iii. The arbitration clause.

iv. Management perogatives.

v. The seniority clause.

Possibly in a Seniority Case

The union should study all of these clauses, and any others which relate to the particular subject matter of the grievance, before it decides to go to arbitration.

b) Does the membership approve? This does not mean that the union leadership must have express authorization to arbitrate a particular grievance, although some unions do leave the decision up to its membership. But in many cases, the grievance committee or executive board must decide by itself whether a particular grievance should be arbitrated. Sometimes the grievance committee will have to buck popular sentiment, if it feels that a particular case is so important that it must go to arbitration, or that a case is not important enough to arbitrate.

c) Is there a good chance of winning? Only death and taxes are certain. You may lose the best possible kind of case, or win one where the cards are stacked against you. You defeat the purpose of arbitration if you would only arbitrate the cases you are certain to win.....and there are probably no such cases. Possibly the important question to ask yourself is: "Do we believe we are right?" There is probably little to be gained from arbitrating a case which is lost before you begin, where, for example, the language of the contract clearly supports the company's position.

QUESTIONS FOR DISCUSSION: Listed below are a number of grievance situations which may arise. In each instance, the case has been processed to the step in the grievance procedure preceding arbitration. For each situation, indicate whether you would recommend the union to take the case to arbitration. Be specific. Indicate whether the matter is arbitrable, and what arguments you would use to support your position:

1. Jim Taylor and Sam Jones bid on the same job opening. Jones has eight years and four months of departmental seniority; Taylor has eight years of departmental seniority. The contract reads:

> "In all cases of promotion, continuous departmental seniority shall be the governing factor where skill, physical fitness and ability to perform the work in a satisfactory manner are relatively equal."

Taylor is awarded the job, and Jones files a grievance. The company contends that Taylor is more proficient, and should be promoted in accordance with the contract. Five months ago Jones, who has a good work record, was active in a movement to de-certify the local union as bargaining agent. The move was decisively beaten.

2. Arnold Brown works on the 7 to 3 shift. On Wednesday he punched out at the regular time, and was just leaving the main gate, headed for the parking lot, when his foreman caught up with him and asked him to work several hours of overtime on a special order which had to be prepared. He worked until 5 p.m., and received 3 hours pay. The contract reads:

> "Employees called in to work on other than their regular shift will be given a minimum of four hours work at the rate of time and one-half or pay equivalent thereto. This provision shall not apply where employees are held over from their regular shifts."

Brown claims he was called back to work, and is therefore entitled to the call-in allowance. The company maintains that Brown never actually left the company premises, and that he was therefore "held

over from his regular shift," and not entitled to the call-in allowance.

3. Tom Weaver is departmental steward on the night shift. The men in his department have been complaining that the company is violating the agreement by not allowing them to take the 10-minute relief provided for in the agreement. A grievance has been filed, but has not been settled. There have been a lot of rush orders lately, and the company is anxious to fill these as rapidly as possible. On Tuesday night, 10 men walk off the job; Weaver is asked by the foreman to tell them to return to their jobs. He refuses, saying, "That is a job for the president of the local to do, not me. Besides, I don't blame them for walking off.....you've had this coming." On Wednesday morning Weaver (who did not walk off) is suspended for two weeks. The company claims that Weaver was disciplined for not telling the men to return to work.

6. Selecting the arbitrator. A variety of methods are used to select an arbitrator. Some of these are listed below:

a) Use of a permanent "umpire." This is sometimes done in large companies, where arbitration cases arise fairly often. An example is General Motors Corporation and the United Auto Workers.

b) Selection by an agency such as the American Arbitration Association or the Federal Mediation and Conciliation Service. Each time an arbitration case arises, the party initiating arbitration requests the AAA, for example, to furnish an arbitrator. This is more or less random selection.

c) Each side furnishes a member of an arbitration "panel", and the two panel members select a third "neutral" member, who is actually the arbitrator, since it is unlikely that the company-appointed panel member will vote for the union, or vice-versa. When the company and union-appointed panel members cannot agree on a third person, several methods

are used to make the selection. For example:

> "The Arbitration Committee shall be composed of one member selected by the Union, one member selected by the Company, the third member selected from a panel received from the Director of the Federal Mediation and Conciliation Service which will be asked to submit five (5) names and they will be alternately stricken until one name remains.
>
> Aro, Inc., and Air Engineering Metal Trades Council, AFL-CIO

> "The Board of Arbitration herein referred to shall consist of three members, one of whom shall be selected by the Union, one by the Company, and the third by the two so chosen. In the event the two appointed members are unable to agree upon selection of the third member within fifteen calendar days after the aggrieved party has appointed its member, the United States Conciliation Service shall thereupon be requested to designate the third member."
>
> International Harvester Company and United Steel Workers

Things to Consider When Selecting an Arbitrator

When in the process of selecting an arbitrator, or deciding whether a particular person is suitable from the union's point of view, there may be a temptation to ask: "Is he pro-union?" Or, "Has he ruled in favor of the union in past cases?" Since arbitrators are interested in staying in business, it should be recognized that if it becomes apparent that he consistently favors one side or the other, the side discriminated against will not want to use him, and the word will quickly spread that so and so "is a company man" or "a good man for labor."

Also, his "won-lost" average - how many times has he ruled in favor of the union or in favor of the company - is not much of a guide. If the last 10 cases he arbitrated were all strongly weighted in favor of the company, we would expect him to rule accordingly. If his rulings have been consistent with the evidence presented to him, we should have no way of determining in advance what his ruling in the next case will be. But with regard to the selection of the arbitrator, there are several important factors for the union to consider:

a) Has he handled any cases similar to the one you are about to arbitrate? If so, it might be a good idea to read his decision - and see what line of reasoning he followed in order to reach his decision. Each edition of the Labor Arbitration Reports has a list of arbitrators associated with the American Arbitration Association, and indicates where his previous rulings can be found. The things to look for in the cases he has arbitrated are:

i. Were his decisions reasonable?

ii. Were his decisions firmly based on the evidence presented to him (including contract language and past practice), or is there some indication of his personal bias creeping into his decision?

iii. Were the arguments he presented in support of his decision logical and understandable, and did they follow from the evidence and facts?

iv. Did he reach a decision within a reasonable period of time, without engaging in unnecessary delay?

Some international unions maintain arbitration files - by subject or name of the arbitrator. It may be possible to get some background information pertaining to an arbitrator you are considering from your international headquarters. In any event, it may be a good idea to check with other unions in your area regarding a particular arbitrator. This is not a fool-proof selection method, but you may be able to get an answer to the most important question of all: "Is he fair-minded?"

b) What does he charge? This is not a minor consideration. Some arbitrators tend to charge unreasonably high fees. Once you have been

presented with an enormous bill, and your contract says that the union will share the total cost of arbitration with the company, it may be too late to complain. The time to find out about cost is in advance of arbitration. Specifically, find out:

i. What is the arbitrator's daily fee?

ii. How many days will he take to reach a decision? Sometimes it is cheaper to have an arbitrator who charges $150 a day - but who reaches a decision in one day - than a $50 a day man who drags out the operation for 10 or 15 days. Try to get a definite advance committment. Unfortunately, there are some arbitrators who have a tendency to stall and delay - either because "they are built that way" - or because they are purposely trying to inflate their bill. Possibly the best arrangement would be to get a fixed price, with a committment from the arbitrator that he will render a decision within a certain number of days.

iii. What other expenses will there be? Most arbitrators charge some sort of per diem plus their travel expenses to and from the hearing. Find out in advance what these expense charges will be. Some arbitrators insist upon a verbatim transcript of the hearing. This is expensive. Find out in advance what the charge will be - per page, and per copy. If you are required to file pre-hearing and post-hearing briefs, you may need the services of an attorney. This is an additional expense.

Under most circumstances, present-day arbitration is expensive, and the

local union with limited resources has to consider each possible arbitration case very carefully.....weighing the potential cost against the danger of conceding the grievance to management at a prior step in the grievance procedure. It is not a matter to be treated lightly.

7. Preparation for Arbitration. Listed below are the steps which the union should follow with regard to the preparation of an arbitration case. Depending upon the type of case involved, who the arbitrator is, etc., not every single one of the procedures may have to be followed.

a. The pre-hearing brief. Some arbitrators request the parties to an arbitration case to submit a brief in advance of the hearing. If this is required, the brief should be short, clearly and simply worded, factual, and to the point. It should include:

i. A statement of the issue.

ii. The background of the issue.

iii. The pertinent facts - what happened (union point of view); the machine, job and place involved; when it happened; relation to past practices; contract clauses involved; and what rights the union has, based on the contract, past practice and general standards of fairness.

b. The submission agreement. This means how the issue is presented to the arbitrator. There are a variety of ways to do this:

i. By means of the grievance slip

ii. The union's letter requesting arbitration

iii. Oral statements of the parties defining the issue

iv. A written submission form stating the issue and signed by both the company and the union. For example:

"The Union states that John Hartung is entitled to classification as Head Shipping Clerk under the contract between the parties. The employer states that John Hartung is properly classified as a Tool Crib Attendant under the terms of the contract between the parties."

The submission agreement should contain:

--Identification of the aggrieved party or group, that is - whose rights have been violated under the contract

--Relation to authority - for example, reference to the collective bargaining agreement and to the particular section which the union feels has been violated

--The condition which the union seeks to remedy ("Tom Hendricks was discharged on January 15, 1961")

--The remedy sought ("Mr. Hendricks should be reinstated, with back pay and allowances, with no loss of seniority")

c. What the union should do in advance of the arbitration hearing.

i. Re-examine the basic facts of the grievance. The union should know these "cold." If similar grievances have arisen, know what settlement was reached (see section on record keeping).

ii. Get all of the facts, not just those favorable to the union's position. Make sure the grievant isn't holding back any information which might have a bearing on the case. Don't be put into the position where you can be surprised by the sudden introduction of new material.

iii. Check on any background information which may provide helpful perspective for the arbitrator (records of negotiations, production data, etc.)

intent

iv. Arrange for witnesses:

Selection: Get the best possible witnesses. Don't have a string of witnesses, all of whom say the same thing. One good witness, who can present his testimony clearly and effectively, is better than 3 or 4 who are not able to do this.

Preparation of witnesses:

--You should know in advance what testimony your witnesses are going to offer. Interview them in advance, and acquaint them with the questions which they will be asked....but don't rehearse the witnesses, or make them memorize statements.

--Make sure that your witnesses are not withholding information which may be detrimental to the case.

--Make sure your witnesses know what the preceding will be like, for example, that they will be questioned by management representatives. Try out a few of these questions, but don't try to give your witnesses ready-made answers.

--Caution your witnesses to stick to the facts, and tell only truth, and to make sure they understand every question put to them before answering. Also, tell them to be reasonably brief and to avoid answering questions they are really not able to answer. Finally, they should be advised not to lose their temper or take personal affront at any question put to them.

v. Review your reasoning. How does the union interpret the facts and what their significance is. Decide in advance what you will emphasize during the hearing, and how you can present it most effectively to persuade the arbitrator to accept the union's view.

vi. Prepare an outline of the evidence you will offer and the points you want to make during the hearing. Make a written check-list of all the significant aspects of the case, to make sure none are overlooked or forgotten during the hearing.

vii. Anticipate management's arguments. Be prepared to answer them. It will help, for example, to know of cases similar to the one being arbitrated, where the arbitrator ruled against the union, and be prepared to show how those cases were different from the present one.

viii. Check with other officers or representatives of your union, or of other unions, to get their viewpoints and ideas. For example, you might do a "dry run" with another union officer, and get his reaction to the method in which you intend to present your case.

SUBMISSION AGREEMENT

Name of grievant _____ Department _____

Date grievance originated _____ Date of this Submission _____

Department Steward _____ Foreman _____

Description of grievance _____

_____

_____

_____

_____

_____

_____

_____

_____

_____

Remedy sought by union _____

_____

_____

_____

_____

Company answer at last step of grievance procedure _____

_____

_____

_____

	For the union:	For the company:
Signed	_____ (name)	_____ (name)
	_____ (title)	_____ (title)

OUTLINE OF PROCEDURE TO BE FOLLOWED IN MOCK ARBITRATION CASE.

1. Selection of case. We will assume that case has been processed through all of the steps of the grievance procedure, and that the company's answer at each step has been unsatisfactory. The union has notified the company that it intends to arbitrate. The case is that of _____.

2. Contract. We shall use as the basis for this case the agreement between the Beloit Iron Works and Local 68, International Association of Machinists.

3. The participants in this case will be:

For the union:	For the company:
_____ (international rep.)	_____ (industrial relation super.)
_____ (local union president)	_____ (vice president, personnel)
_____ (chief steward)	_____ (attorney)

The arbitrator will be _____

Each side can call anybody it wants as a witness. However, neither side should call more than 3 witnesses.

4. Procedure.

a) Before the next class, the union representatives and the company representatives shall get together, and complete a submission agreement. This will be given to the arbitrator in advance of the hearing.

b) Either side may, if it wishes, submit a pre-hearing brief. This should be short, not more than one or two pages. If either side decides to submit a pre-hearing brief, it should be given to the arbitrator by Tuesday of the week in which the class is held.

c) The actual hearing will take place during the class session. The opening statement will be made by the union; the company will then present its position. The arbitrator will then allow each side to call witnesses. Each witness can be cross-examined by the other side, at the completion of his testimony.

d) If time allows, we shall discuss the case presentation of both parties. Otherwise, this discussion will be held the following week.

e) The arbitrator will render his decision at the next class session. If possible, he will prepare enough copies for distribution to class members. After he has given his decision, a full discussion will follow, regarding presentation of the case and the arbitrators ruling.

QUESTIONS FOR DISCUSSION:

Regarding the case presentation.

1. In support of its position, did the union cite the appropriate sections of the collective bargaining agreement? If not, what different sections should have been cited?

2. How effective were the union's witnesses? Were they asked the right questions? Were their answers helpful to the union's position?

3. Did the union cross-examine the company's witnesses effectively? Do you think that the company witnesses' testimony was weakened, from the arbitrator's viewpoint, as a result of this cross-examination?

4. Do you think the union's case was presented in a logical, orderly fashion? What additional arguments should the union have raised? Are there any parts of the union's presentation that should have been omitted?

Regarding the arbitrator's decision.

1. Based on the testimony given and evidence offered, was the arbitrator's decision correct?

2. What do you think were the most important factors influencing his decision? Was the testomony of any particular witness especially important?

3. Did the arbitrator indicate that he understood the position of both parties, and what the collective bargaining agreement said?

4. By his questioning of witnesses, and in his decision, did the arbitrator indicate that he wanted to reach a decision based on the merits of the case, and not on what his own viewpoint might be?

Arbitration records.

We have already discussed in some detail the other record-keeping which goes along with administering the agreement. A final word is in order, regarding arbitration records. The local union should, of course, maintain a record of every single arbitration in which it is involved. This record should include:

Read

1. A copy of the final decision rendered by the arbitrator. This is almost always given to the union by the arbitrator, and additional copies should be made available to the union (i.e., for submission to the international union, for the grievant, the steward involved, etc.)
2. The record should include a list of the witnesses who appeared for the union, for the company, and indicate who presented the case for each side. If verbatim transcripts of the proceedings are made, this should be made part of the arbitration record.
3. The union may also want to make some notes about the arbitrator, to be included in the record for future reference. These notes might include anything that might be of value in future arbitration cases to the local union or to other unions, or the international union. For example, you might indicate whether he acted impartially, i.e., was he overly friendly to either side? Did he understand the problem he was asked to resolve. Would you recommend him as arbitrator to another local union, or to your own local union in another arbitration case - even if he ruled against you in this particular case.

AMERICAN ARBITRATION ASSOCIATION
477 MADISON AVE. • NEW YORK 22, N. Y.

GP-5M-7-62 29

[1962]

Code of Ethics and Procedural Standards for Labor-Management Arbitration

Prepared by the
AMERICAN ARBITRATION ASSOCIATION
and the
NATIONAL ACADEMY OF ARBITRATORS
and Approved for Arbitrations
by the
FEDERAL MEDIATION AND
CONCILIATION SERVICE

Republished by the
American Arbitration Association
and the
National Academy of Arbitrators
July, 1962

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FOREWORD TO THE 1951 EDITION

In 1949-50 the American Arbitration Association submitted its Code of Ethics for Arbitrators for re-examination and criticism to more than one hundred arbitrators and representatives of labor and management.

A variety of views were expressed and many suggestions were received. A special drafting committee was then organized which held a series of meetings for the consideration of these views and suggestions.

At about the same time, the National Academy of Arbitrators instructed its Committee on Ethics to inquire into the same subject. The committees met together and were joined by representatives of the Federal Mediation and Conciliation Service. Drafts and redrafts were prepared, debated, and circulated among members of the American Arbitration Association Committee and the members of the National Academy of Arbitrators for approval. The result was this Code of Ethics and Procedural Standards for Labor-Management Arbitration, which is a complete revision of the earlier Code. It will be noted that the new Code is not applicable to commercial arbitrations; this field has been completely divorced from labor-management arbitration. It will also be noted that standards of ethics for parties as well as for arbitrators have been included. It was considered that the ethical and orderly conduct of labor-management arbitrations necessarily requires the observance by the parties of certain obligations and duties in order to make the essential standards of arbitrators more effective. In view of the plain desire of management and labor representatives to have their differences conclusively resolved through the arbitration process, it is highly desirable that arbitration be self-disciplining, thus promoting respect for this process and narrowing the situations in which resort is had to courts to set aside, modify, or enforce awards.

This field has grown very rapidly and it is entirely understandable that varying concepts may be held with regard to the nature of the process and of the character of the arbitrator's functions. It is the purpose of the drafters to have a code of ethics primarily designed to meet situations in which the parties, having failed to resolve their differences through direct negotiations, either with or without the assistance of mediators, have elected to submit their dispute for settlement through arbitration. The dispute may be over the interpretation or application of an existing agreement, or over terms and conditions of the agreement to be in effect in the future.

In any event, it is not intended to deny or narrow in any way the right of the parties to have whatever type of proceedings they desire. The arbitrator is serving them, and the proceeding is theirs.

It is not intended to have this Code regulate many kindred types of proceedings in which third parties play a part. Thus, this Code would not be applicable to fact-finding proceedings, with or without recommendations, to mediation or conciliation efforts, or to proceedings which are combinations of mediation, fact-finding, and perhaps eventually of decision-making.

The preparation of this Code has not been a simple matter. Strong and divergent views had to be reconciled in the successive drafts. The success with which this has been accomplished is evident from the unanimous approval given to the final form by the members of the National Academy of Arbitrators, the representatives of the Federal Mediation and Conciliation Service, and the large group constituting the Committee of the American Arbitration Association.

Most appropriately, the funds for the publication of this booklet have been made available by the Bernheimer Arbitration Education Fund, as a tribute to the late Charles L. Bernheimer, who was one of the early advocates of the use of arbitration in labor-management disputes.

LLOYD K. GARRISON, *Chairman*
Committee on Revision of the
American Arbitration Association
Code of Ethics for Arbitrators

DAVID L. COLE, *Chairman (1950)*
Committee on Ethics
National Academy of Arbitrators

PART I

CODE OF ETHICS FOR ARBITRATORS

1. Character of the Office

The function of an arbitrator is to decide disputes. He should, therefore, adhere to such general standards of adjudicatory bodies as require a full, impartial and orderly consideration of evidence and argument, in accordance with applicable arbitration law and the rules or general understandings or practices of the parties.

The parties in dispute, in referring a matter to arbitration, have indicated their desire not to resort to litigation or to economic conflict. They have delegated to the arbitrator power to settle their differences. It follows that the assumption of the office of arbitrator places upon the incumbent solemn duties and responsibilities. Every person who acts in this capacity should uphold the traditional honor, dignity, integrity and prestige of the office.

2. The Tri-Partite Board

Where tri-partite boards serve in labor arbitrations, it is the duty of the parties' nominees to make every reasonable effort to promote fair and objective conduct of the proceedings, to aid the arbitration board in its deliberations and to bring about a just and harmonious disposition of the controversy. It is recognized, however, that the parties frequently expect their appointees to serve also as representatives of their respective points of view. In such cases, the rules of ethics in this Code, insofar as they relate to the obligations of strict impartiality, are to be taken as applying only to the third or neutral arbitrator.

Such representatives, however, unless the parties agree otherwise, should refrain from conveying to the parties who appointed them, the discussions which take place in executive session and any information concerning the deliberations of the board. No information concerning the decision should be given in advance of its delivery simultaneously to both parties.

3. Qualification for Office

Any person whom the parties or the appointing agency choose to regard as qualified to determine

their dispute is entitled to act as their arbitrator. It is, however, incumbent upon the arbitrator at the time of his selection to disclose to the parties any circumstances, associations or relationships that might reasonably raise any doubt as to his impartiality or his technical qualification for the particular case.

4. Essential Conduct

a) The arbitrator should be conscientious, considerate and patient in the discharge of his functions. There should be no doubt as to his complete impartiality. He should be fearless of public clamor and indifferent to private, political or partisan influences.

b) The arbitrator should not undertake or incur obligations to either party which may interfere with his impartial determination of the issue submitted to him.

5. Duty to the Parties

The arbitrator's duty is to determine the matters in dispute, which may involve differences over the interpretation of existing provisions or terms and conditions of a new contract. In either event, the arbitrator shall be governed by the wishes of the parties, which may be expressed in their agreement, arbitration submission or in any other form of understanding. He should not undertake to induce a settlement of the dispute against the wishes of either party. If, however, an atmosphere is created or the issues are so simplified or reduced as to lead to a voluntary settlement by the parties, a function of his office has been fulfilled.

6. Acceptance, Refusal or Withdrawal from Office

The arbitrator, being appointed by voluntary act of the parties, may accept or decline the appointment. When he accepts he should continue in office until the matter submitted to him is finally determined. When there are circumstances which, in his judgment, compel his withdrawal, the parties are entitled to prompt notice and explanation.

7. Oath of Office

When an oath of office is taken it should serve as the arbitrator's guide. When an oath is not required or is waived by the parties, the arbitrator should nevertheless observe the standards which the oath imposes.

8. Privacy of the Arbitration

a) An arbitrator should not, without the approval of the parties, disclose to third persons any evidence, argument or discussions pertaining to the arbitration.

b) There should be no disclosure of the terms of an award by any arbitrator until after it is delivered simultaneously to all of the parties and publication or public disclosure should be only with the parties' consent.

Discussions within an arbitration board should be held in confidence. Dissenting opinions may be filed, however, but they should be based on the arbitrators' views on the evidence and controlling principles, and not on the discussions which took place in the executive sessions of the board.

9. Advertising and Solicitation

Advertising by an arbitrator and soliciting of cases is improper and not in accordance with the dignity of the office. No arbitrator should suggest to any party that future cases be referred to him.

PART II

PROCEDURAL STANDARDS FOR ARBITRATORS

The standards set forth in the following sections are intended only as general guides to arbitrators and to parties in arbitration proceedings. It is not intended that they will be literally adhered to in every particular, nor are they intended to supplant contrary practices which in particular cases have been established or accepted by the parties. These standards are meant to be equally applicable to partisan and neutral members of arbitration boards.

These standards of procedure are not to be deemed mandatory precepts or controlling rules which will furnish a basis for attacking awards or enlarging the grounds prescribed by law for the impeachment of awards.

1. Compensation and Expenses of the Arbitrator

a) Arbitrators serving in labor-management disputes generally receive compensation. The position of an arbitrator, whether compensated or not, is an honorary one and is accepted as an opportunity for public service.

b) Compensation for arbitrators' services should be reasonable and consistent with the nature of the case and the circumstances of the parties. A fee previously fixed by the parties, or by schedule, should not be altered during the proceeding or after the award is delivered.

c) It is commonly understood that necessary expenses, including travel, communications and maintenance, may be incurred by the arbitrator and that such expenses are reimbursable. The arbitrator should be prepared to render a statement of his expenses if the parties desire it.

2. Hearing Arrangements

a) The arbitrator should consult the convenience of the parties in fixing the time and place for the hearing but should not allow one party to delay unduly the fixing of a date for the hearing. Written and timely notice of the date, time and place of the hearing should be given.

b) Whenever the law permits, the arbitrator in his discretion may issue subpoenas.

3. Oath of Office

The following is the general form of oath which the law of certain states requires the arbitrator to take:

> ..... being duly sworn deposes and says that he will faithfully and fairly hear and examine the matters in controversy between the above named Parties, and that he will make a just award according to the best of his understanding.

4. The Hearing

a) The arbitrator should be prompt in his attendance at the hearing and should so conduct the proceeding as to reflect the importance and seriousness of the issue before him. The orderly conduct of the proceeding is under his jurisdiction and control, subject to such rules of procedure as the parties may prescribe. He should proceed promptly with the hearing and determination of the dispute. He should countenance no unnecessary delays in the examination of witnesses or in the presentation of evidence. Where the law requires it, witnesses must be sworn unless the parties duly waive this requirement.

b) The arbitrator may participate in the examination of parties or witnesses in order to clarify the issues and bring to light all relevant facts necessary to a fair and informed decision of the issues sub-

mitted to him. However, he should bear in mind that undue interference or emphasis upon his own knowledge or view may tend to prevent the proper presentation of the case by a party. Examinations should be fair and courteous and directed toward encouraging a full presentation of the case. The arbitrator should avoid assuming a controversial attitude toward witnesses, parties or other arbitrators. He should avoid expressing a premature opinion.

c) The informality of the hearings should not be allowed to affect decorum and the orderly presentation of proof. The arbitrator should seek to prevent any argument or conduct at the hearings which would tend to cause bitterness or acrimony.

d) Unless the parties approve, the arbitrator should not, in the absence of or without notice to one party, hold interviews with, or consider arguments or communications from the other party. If any such communications be received, their contents should be disclosed to all parties and an opportunity afforded to comment thereon.

e) The arbitaror should allow a fair hearing, with full opportunity to the parties to offer all evidence which they deem reasonably material. He may, however, exclude evidence which is clearly immaterial. He may receive and consider affidavits, giving them such weight as the circumstances warrant, but in so doing, he should afford the other side an opportunity to cross-examine the persons making the affidavits or to take their depositions or otherwise interrogate them.

f) The arbitrator is expected to exercise his own best judgment. He is not required except by specific agreement of the parties to follow precedent. He should not, however, prevent the parties from presenting the decisions of other arbitrators in support of their positions. When the parties have selected a continuing arbitrator, it is generally recognized that he may establish or follow precedents for the same parties.

5. The Award

a) The arbitrator should render his award promptly and must render his award within the time prescribed, if any. The award should be definite, certain and final, and should dispose of all matters submitted. It should reserve no future duties to the arbitrator except by agreement of the parties.

b) The award should be stated separately from the opinion, if an opinion is rendered.

c) It is discretionary with the arbitrator, upon the request of all parties, to give the terms of their voluntary settlement the status of an award.

d) The award should be personally signed by the arbitrator and delivered simultaneously to all parties. The arbitrator should exercise extreme care to see that the contractual or legal requirements for making and delivering the award are met.

e) It is discretionary with the arbitrator to state reasons for his decision or to accompany the award with an opinion. Opinions should not contain gratuitous advice or comments not related or necessary to the determination of the issues. If either party requests the arbitrator to prepare an opinion, such request should be followed.

f) After the award has been rendered, the arbitrator should not issue any clarification or interpretation thereof, or comments thereon, except at the request of both parties, unless the agreement provides therefor.

6. Privacy of Proceeding and Award

The arbitrator should not publish or publicly comment on the proceedings or the award against the wishes of the parties.

PART III

CONDUCT AND BEHAVIOR OF PARTIES

1. General

Arbitration is predicated on the voluntary agreement of the parties to submit a dispute to a disinterested third party for final determination. It implies not only the willingness to arbitrate but the willingness to attend a hearing, submit evidence, submit to cross-examination and to abide by the decision of the arbitrator.

2. Scope

The power of the arbitrator depends upon the agreement of the parties. Accordingly, the contract or the submission agreement should define his powers. In initiating an arbitration—whether under a clause in a collective bargaining agreement or under a submission agreement or a stipulation—it is the duty of the parties to set forth the nature of the controversy, the claim asserted and the remedy sought. The initiat-

ing party has the duty of setting forth its claim and the defending party the right to outline its position.

3. Selection of Arbitrator

The parties should select the arbitrator, in accordance with their agreement, to determine the controversy existing between them and his designation should be based on his integrity, knowledge and judgment. A party should not seek to obtain the appointment of an arbitrator in the belief that he will favor that party and thereby give him an advantage over his adversary.

In keeping with the desire for complete impartiality, parties should reject as arbitrators persons who solicit cases.

4. The Tri-Partite Board

When parties select members of tri-partite boards, it is recognized that generally each will select a representative rather than an impartial arbitrator, but in making such appointment parties should select persons who will join with the impartial arbitrator in a full and fair discussion and consideration of the merits of the question to be determined.

5. Essential Conduct

Parties should approach arbitration in a spirit of cooperation with the arbitrator and should seek to aid him in the performance of his duties.

Having selected an arbitrator, the parties are under a duty not to subject him to improper pressures or influences which may tend to prejudice his judgment. They should neither give nor offer favors of any kind to the arbitrator. As a general rule they should not communicate with him privately; and if it becomes necessary to communicate with him, it should be done in writing and a copy thereof should be simultaneously delivered to the other party.

Parties should respect the office of the arbitrator and recognize his essential right to control the conduct of the arbitration and should abide by whatever rulings he may make.

When an arbitrator elects to withdraw from a proceeding and gives the parties his reasons, they should respect his right to do so in the interest of good arbitration.

6. The Hearing

Parties should not unduly delay the fixing of a date for the hearing nor the completion of the hearing. They should be prepared to proceed expeditiously with their evidence and their witnesses, have their exhibits ready and cooperate with the arbitrator in furnishing whatever additional information he may deem necessary.

They should be prompt in attendance at the hearing.

Parties should be fair and courteous in their examination of witnesses and in their presentation of facts. Concealment of necessary facts or the use of exaggeration is not conducive to a good or sound determination of the differences between the parties. Acrimonious, bitter or ill-mannered conduct is harmful to the cause of good arbitration.

When hearings are concluded, parties should not attempt to communicate any additional information to the arbitrator. If new evidence becomes available, written application for the re-opening of the proceeding with the reasons therefor should be made to the arbitrator and a copy transmitted simultaneously to the other party.

When it has been agreed that briefs will be submitted, they should be filed promptly on the date arranged and no new matter should be included in the briefs. Briefs should be a summarization of the evidence presented at the hearing, together with the arguments of the parties and their comments on the evidence.

7. Privacy of the Arbitration

The parties should consider whether the subject matter of the arbitration is of such public interest as to warrant publicity concerning the proceeding and publication of the award and opinion, if any; and should advise the arbitrator accordingly on the record or in writing.

8. Arbitrators' Executive Meetings

Meetings of the arbitrators and discussions in executive sessions by members of boards of arbitration are private and confidential and parties should not seek to obtain information concerning such meetings either from the third arbitrator or from their nominees. Parties should likewise refrain from attempting to secure in advance from the arbitrator or their nominees information concerning the award but should wait until the award is received in the regular course by both parties.

9. The Award

Parties, having agreed to arbitration, should accept and abide by the award.

After an award has been rendered, neither party should unilaterally request a clarification or interpretation of the award from the arbitrator. If one is necessary, it should be requested jointly by both parties.

10. Settlements

If the parties reach a settlement of their dispute but desire nevertheless to have an award made, they should give the arbitrator a full explanation of the reasons therefor in order that he may judge whether he desires to make or join in such an award.

11. Compensation of the Arbitrator

Parties should agree in advance of the hearing with the arbitrator on his compensation or the basis upon which it will be determined, but such arrangements should be made only in the presence of both parties. If the parties do not agree with one another as to the compensation, they should discuss the matter in the absence of the arbitrator in order that there be no intimation or suggestion that one party is willing to pay more compensation than the other and thereby raise the possibility of a question thereafter as to partiality on the part of the arbitrator.

Having agreed on the compensation for an arbitrator's services or to the reimbursement of his necessary expenses, parties should remit promptly and under no circumstances should such payment be withheld because of displeasure over the award.

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Industrial and Labor Relations Review
Volume 17, No. 1, October 1963

Arbitration

LOYALTY AND SECURITY CASES IN ARBITRATION

BRUNO STEIN

SINCE the end of World War II, grievance arbitration has been a major force in shaping the common law of the union organized shop. Arbitration awards help to delineate areas of acceptable industrial behavior, as well as management rules, collective bargaining, and the existing mores of the industrial world. What constitutes behavior acceptable to an employer has never been a matter confined to the shop itself. Transgressions committed outside the plant frequently become subjects of arbitrable disciplinary proceedings. The practice of publishing arbitration awards and opinions helps to diffuse the private law of one shop into a more general industrial common law. Notwithstanding the rule against *stare decisis,* published awards constitute a kind of case law.

The purpose of this study is to discover what arbitration case law, if any, developed from worker activity centering in the radical left. "Loyalty" cases, as these are sometimes called, present difficult problems to arbitrators, mainly because of the civil rights element they contain. In one sense they are a special case of the general problem of determining what behavior, not directly connected with work, shall be deemed objectionable and therefore "just cause" for discipline. In a larger sense, the cases reflect the industrial community's effort to evolve new rules of behavior adaptable to the larger problems of living in a cold war situation.

Arbitration awards published between 1945 and 1961 are the source of the basic data.[1] Reliance on published awards has certain serious drawbacks since these constitute a statistically poor sample of all awards. Nevertheless, the published awards probably reflect, however imprecisely, the attitudes of arbitrators, and have a special significance in that they influence the shaping of the industrial common law. The awards studied below

Dividing the cases into three categories, involving Communist activity, refusals to testify, and security risk cases, this study examines arbitration awards published between 1945 and 1961 which dealt with these problems. Regarding the first category, the author finds a shift in arbitrators' attitudes, probably reflecting more general attitude changes in the United States. In cases involving refusals to testify, the awards indicate an ambivalence also characteristic of public reaction to this problem. Of the reported cases resulting from the government's industrial security program, the great majority of them ended adversely to the employees involved.

Bruno Stein is associate professor of economics and assistant director of the Institute of Labor Relations at New York University. This study was completed with financial aid from the Arts and Science Research Fund of New York University.—EDITOR

[1]Bureau of National Affairs, *Labor Arbitration Awards* (Washington: BNA, Inc.), 1945–1961, cited as LA; Prentice-Hall, *American Labor Arbitration Awards* (Englewood Cliffs: Prentice-Hall, Inc.), 1945–1961, cited as ALAA. Most of the awards were taken from the BNA volumes. The Prentice-Hall service was used as a supplement. The BNA, according to one of its officials, published virtually all cases it received on this subject. There is, however, no way to estimate what proportion of all cases these represent.

frequently referred to other published opinions.

Three categories were established for the purpose of analysis. Into Category I went cases resulting from overt allegedly Communist activity. The term is used to include actions that might be termed "fellow travelling," since proof that the accused person was a party member was not always forthcoming. All cases but one were discharge cases, and both in-plant and off-plant actions were involved.

Category II cases stem from refusal by workers to testify regarding past or present membership in the Communist party or alleged Communist front groups. In most cases the privilege of the Fifth Amendment or its state equivalent was used. In many cases present membership was denied, and the privilege used to avoid testifying about past affiliations. It may be recalled that much controversy was engendered in the 1950's by the question: does resort to the privilege against self-incrimination necessarily imply guilt, and if so, guilt of what? Within the industrial community, arbitrators had to determine whether refusal to testify was an offense punishable by discharge.

The operation of the government's industrial security program in defense facilities led to the Category III cases. The administration of the program led not only to arbitrable discharges, but also raised questions of seniority and back pay where clearance was first denied and later granted.[2] Over time, an increasing number of collective agreements have come to specify the procedure to be followed, thus reducing the need for arbitration and giving arbitrators firmer bases for decisions in subsequent cases.

Table 1. Reported Cases, 1945–1961.*

Type of Case	*Number of Cases*	*Grievance Denied*	*Grievance Sustained*
Category I	10	4	6
Category II	17	8	9
Category III	8	6	2
Total	35	18	17

*The first published cases appeared in 1947.

THE INCIDENCE OF THE CASES

An examination of the incidence of the cases reveals an interesting pattern. None of the traditional crafts are represented. This may be because such unions might have been unwilling to process grievances of this nature, because left-wing activity was less frequent among their membership, and because employers were less apt to take action. A wide range of hypotheses is possible. Since our data consists of grievances that went all the way to arbitration, its nature prevents any testing of such hypotheses.

Four national unions account for 57 percent of all cases and 70 percent of all grievants. This concentration is caused by the "refusal to testify" cases. The United Auto Workers and United Steelworkers, staunchly anti-Communist, were apparently willing to press such cases. One would have assumed other unions born in the 1930's to be well represented. The study casts no light on this. The United Electrical Workers were, of course, a special target (the IUE case deals with former UE activists), but one would have expected the same of the International Longshore and Warehouse Workers and the Mine, Mill, and Smelter Workers. The incidence of defense con-

[2]Not all security risks are so classified because of communism. Suspected relatives, unstable personalities, etc. may be the cause of denial of clearance under the Federal Security Program. For examples, see Adam Yarmolinsky, *Case Studies in Personnel Security* (Washington: BNA, 1955).

tracts may have had something to do with this, but a more precise evaluation is outside the scope of this study.

The Newspaper Guild stands out with five cases involving six dismissed employees. One of the Typographical Union cases is also a newspaper case. During the late 1940's and early 1950's the communications media were extremely sensitive regarding the employment of suspected present and former communists and sympathizers. Because of the nature of the hiring procedure for creative talent, a blacklist served in lieu of discharges.[3] Cases were not likely to come to arbitration.[4] One can safely infer that the newspaper cases were part of the general pattern that prevailed in the entertainment and news industries.

PRIVATE AND PUBLIC POLICY

Before examining the cases themselves, a brief summary will be made of attitudes in private industry, the National Labor Relations Board, and the courts. Arbitration proceeds within an existing framework of private and public policies that serve as guidelines to the parties and to arbitrators.

A good many loyalty discharges were made by employers during the period in question, but it is impossible to estimate their number. In the absence of a union,

[3]See John Cogley, *Report on Blacklisting*, 2 vols. (New York: Fund for the Republic, 1956).

[4]The writer knows of one unreported case in the television industry, and there were probably others. A thorough survey of unreported cases in all industries would have been desirable, but was prevented, both by lack of funds and by a disinclination on the part of many people to cooperate. At least one arbitrator in another unreported case offered to show his award to the writer on the condition that he would not be identified.

Table 2. Type of Case by Number of Unions and Number of Grievants.

Union	*Category I*		*Category II*		*Category III*		*Total Number of*	
	No. of Cases	*No. of Grievants*	*No. of Cases*	*No. of Grievants*	*No. of Cases*	*No. of Grievants*	*Cases*	*Grievants*
United Auto Workers	2	2	2	2	2	2	6	6
American Newspaper Guild	0	0	5	6	0	0	5	6
United Steelworkers	1	1	4	6	0	0	5	7
United Electrical Workers	1	1	3	5	0	0	4	6
International Association of Machinists	0	0	1	1	1	1	2	2
International Typographical Union	2	2	0	0	0	0	2	2
Mine, Mill & Smelter Workers	1	1	0	0	0	0	1	1
United Cafeteria Workers	0	0	0	0	2	2	2	2
United Office and Professional Workers	2	2	0	0	0	0	2	2
American Communications Assn.	0	0	1	1	0	0	1	1
Communications Workers of America	0	0	0	0	1	1	1	1
International Union of Electrical Workers	0	0	1	3	0	0	1	3
United Rubber Workers	1	1	0	0	0	0	1	1
Engineers Assn. of Arma	0	0	0	0	1	1	1	1
Plant Guard Workers	0	0	0	0	1	1	1	1
Total	10	10	17	24	8	8	35	42

Source: Bureau of National Affairs, *Labor Arbitration Reports;* and Prentice Hall, *American Labor Arbitration Awards.*

dismissed workers have little or no recourse. In many cases where a collective bargaining relationship existed, the union condoned such discharges so that no arbitration cases emerged. Again, the number of such instances cannot be estimated. Attempts by discharged workers to compel arbitration were generally unsuccessful.[5] It is likely that some "loyalty" discharges took place under the guise of other claimed offenses. The discharged employee sometimes preferred this, as a loyalty discharge would make him virtually unemployable. In other instances, careful checks on rule infractions or efficiency probably provided the basis for discharge, and conceivably, the employee might never know the real reason for the severance.[6]

An important employer research organization put it this way:

Where the union is cooperative or where there is no union, companies report that the best thing to do is to fire men of questionable loyalty. Communist affiliation is rarely used as the premise since this may be difficult, if not impossible to prove legally. Instead, an infraction of a company rule, submission of a false employment application, or failure to perform work satisfactorily are generally bases of dismissal. Some companies report, however, that "Commies can be awfully good and conscientious workers when the heat is on."

Security personnel maintain, however, that in the long run, with vigilance and careful "bookkeeping" of the actions, comings and goings, absences, vacation leaves and any violations of these and of other company rules, management will be able to get rid of some of its security risks.[7]

Discharges of active unionists are potentially subject to National Labor Relations Board jurisdiction, if there is reason to believe that the underlying motive of the employer is to be rid of the militant union leader. In the 1930's and 1940's the NLRB tended to be suspicious of private loyalty measures, but its policies thereafter gave employers considerable leeway in loyalty discharges.[8] Actually, the Board itself got few such cases. The General Counsel stopped virtually all of them by refusing to issue complaints on the ground that the National Labor Relations Act did not protect in these matters even though union activity was involved.[9]

The courts gave relatively little guidance to arbitrators in questions of private employment. In the *Cutter Laboratories* case, the lower California courts' refusal to vacate an arbitration award reinstating a Communist was reversed by the California Supreme Court. That court ruled that the employment of Communists was contrary to the public policy of the state.[10] The United States Supreme Court denied certiorari.[11] The New York

[5]As in Ostrofsky v. United Steelworkers, Local 2609, 171 F. Supp. 782 (D.C. Md. 1959), *affirmed mem.* 273 F. 2d 614 (4th Cir. 1960), *cert. denied,* 363 U.S. 849 (1960).

[6]Comment, "Loyalty and Private Employment: The Right of Employers to Discharge Suspected Subversives," 62 *Yale Law Review* 954, 983 (1953).

[7]National Industrial Conference Board, *Industrial Security: Combating Subversion and Sabotage,* Studies in Business Policy No. 60 (New York: NICB, 1952), p. 63.

[8]Henry Mayer, "Labor's Responsibility to National Security and its Due," Emanuel Stein (ed.), *Proceedings of New York University Seventh Annual Conference on Labor* (Albany: Matthew Bender & Co., 1954), pp. 506–511.

[9]Administrative Decisions of the General Counsel, National Labor Relations Board. Case No. 63 (1951), 27 LRRM 1443; Case No. 72 (1951), 27 LRRM 1510; Case No. 410 (1952), 31 LRRM 1067; Case No. 797 (1953), 32 LRRM 1619; Case No. 661 (1953), 32 LRRM 1231; Case No. 961 (1954), 33 LRRM 1526; Case No. F-143 (1957), 40 LRRM 1361; Case No. F-361 (1958), 42 LRRM 1281.

[10]Cutter Laboratories v. Bio-Lab Union Local 25, 16 LA 208, *affirmed,* Black v. Cutter Laboratories, 266 P. 2d 92 (1951), *reversed,* 43 Cal. 2d 788, 278 P. 2d 905 (1955).

[11]Black v. Cutter Laboratories, 351 U.S. 292 (1956).

courts, however, were not willing to apply the *Cutter* doctrine, at least insofar as refusal to testify was concerned. Thus, although a lower New York court specifically cited *Cutter* in one case, the Appellate Division preferred not to apply a supervening public policy to override collective bargaining rules, and the state's highest court affirmed without opinion.[12] The federal courts were equally unclear. In *United Electrical Workers* v. *General Electric* a discharged worker and his union sought declaratory relief, injunction, and damages. The employee had been dismissed following his refusal to testify before a Senate Committee. The dismissal was based on the company's policy in regard to security risks and suspected subversives. The union argued that such matters were subject to negotiation. The district court held that the discharge was for obvious cause and dismissed the complaint on the merits. On appeal, the circuit court dismissed the case for lack of jurisdiction because the NLRB had exclusive primary jurisdiction and because the claim involved less than the district court's minimum jurisdictional amount.[13] In short, no clear legal doctrine emerged.

CATEGORY I: ALLEGED COMMUNIST ACTIVITY

The earliest cases deal with workers whose activities or affiliations made them subject to disciplinary measures by employers. Of the ten awards on record, nine were discharge cases and one involved back pay. Political activity was the crux of the matter in six of the cases; two arose during a period of labor strife. One case arose where a worker, accused at a congressional hearing, denied the charges against him—this was the back-pay case—and one involved a printer's error that had ideological overtones. All of the cases came to arbitration during the six-year period of 1947 to 1950 inclusive.

An analysis of the opinions rendered reveals that the principal reasons for upholding grievances were: (1) communism is legal; (2) the employer was trying to rid himself of a militant union leader; (3) the specific activity in question—such as pamphlet distribution or misrepresentation on an employment application—was not just cause for discharge under the circumstances in question. Major reasons for denying the grievance were (1) dissension among the work force because of the presence of a Communist; (2) injury to the employer's reputation and ability to obtain business.

The first two cases concern themselves with pamphlet distribution,[14] a form of activity that was more frequent in the late forties than now. Both of these cases were decided by different arbitrators on the same day and give an insight into some of the problems that were to develop. The grievant in *Spokane-Idaho* was discharged for distributing Communist literature in violation of a plant rule against the distribution of any kind of literature. He was openly a member of the Communist party. Arbitrator Cheney held that the real reason behind the discharge was the employee's communism, as the rule violation would, by itself, have led to a milder penalty. Since being a Communist was legal, however

[12]Carey v. Westinghouse Electric Corp. 14 Misc. 2d 239, 178 N.Y.S. 2d, 846 (Sup. Ct. 1958), *modified*, 6 A.D. 2d 582, 180 N.Y.S. 2d 203 (1st Dept. 1958), *aff'd mem.* 6 N.Y. 2d 934 (1959).

[13]127 F. Supp. 934 (D.D.C. 1954), *aff'd in part and rev'd. in part*, 231 F. 2d 259 (D.C. Cir. 1956), *cert. denied*, 352 U.S. 872 (1956).

[14]Spokane-Idaho Mining Co. and International Union of Mine, Mill, and Smelter Workers, Local 18, 9 LA 749 (1947); and Curtiss-Wright Corp. and United Auto Workers, Local 927, 9 LA 77 (1947).

obnoxious, Cheney reinstated the man with back pay. "Our government," he said, "apparently still realizes that *labor or the right to labor is a valuable property right, which should not be denied* or withdrawn from laboring people because their political or economic philosophies do not accord with those of a majority of our citizens."[15]

While communism was as yet being dealt with as a political movement whose distastefulness did not deprive the worker of his rights under the labor agreement, the issue of communism as a security matter arose, albeit indirectly, in the *Curtiss-Wright* case. Here the grievant was discharged for distributing a Communist party pamphlet in alleged violation of a no-solicitation or distribution-while-at-work rule. Since the act took place at lunch time, Arbitrator Frank R. Uible reinstated the grievant. The company's motive was economic as well as ideological. Its contract with the Navy Department required it to report the names of all employees engaged in subversive activity, and to discharge any "undesirable employee." After having discharged the grievant, Curtiss-Wright asked the Navy whether it should reinstate him; the Navy said no. In his opinion, the arbitrator noted that the Communist party was not outlawed. Under its labor agreement, the company had no right to discharge except for "just cause." If the Navy again sought the grievant's discharge, on the ground that the employee was "undesirable," this could be treated as a separate matter. The implication was clear that such a discharge could be upheld as being for just cause.

Three other cases under the category of Communist activity involved workers who held leading positions in their local unions. Discharges of such persons always raise the possibility of bad faith, although bad faith is not, of course, necessarily behind an employer's discharge of a union leader. In the first of the three cases below, a local union president was involved. In the other two cases, local union leaders were dismissed during labor disputes.

In *Jackson Industries*[16] the grievant was attacked by the Birmingham (Ala.) *Post* as being a leading member of the Communist party under an alias. He did not deny the charge and was thereupon expelled from the CIO Industrial Union Council of Birmingham. The employer dismissed him on the ground that his presence created unrest in the plant and specified that communism was not an issue. As evidence of unrest, the employer introduced two petitions from workers in the plant, one asking for the employee's dismissal, the other asking that the dismissal be upheld. They were signed respectively by forty-nine and fifty-four workers.[17]

Arbitrator Whitley P. McCoy ruled that the company had a right to be protected from unrest among its work force. If the charge of communism was true, loss of the job was the natural consequence of the grievant's actions. If the charge was false, the grievant's remedy lay in the courts, where charges of libel could be made. In effect, this opinion was the reverse of the one in *Spokane-Idaho,* where Cheney had held that the right to the job was not subject to abrogation because of the worker's obnoxious opinions. McCoy was aware of this, for he noted that this case differed from

[15] 9 LA at 752.

[16] Jackson Industries and United Steelworkers, Local 2815, 9 LA 753 (1948).

[17] At the union meeting to determine whether the grievance should be prosecuted only forty-five of two hundred members showed up. The vote was twenty-five to twenty in favor of prosecuting the grievance. 9 LA at 754.

Spokane-Idaho. The controlling element in *Jackson Industries,* McCoy said, was the dissension in the plant that resulted from the grievant's continued presence there.[18]

The complexities that the problem began to assume are illustrated in *Foote Brothers*[19] and *Cutter Laboratories* cases.[20] In both cases, left-wing unions were involved, militant union leaders were discharged, and hostile labor-management relationships existed. Such circumstances raise questions of good faith, causing the arbitrator to consider whether the underlying motives for the dismissal correspond to the stated charges. One possible clue might be the length of time elapsing between the company's knowledge of the worker's alleged guilt and its decision to dismiss him. As will be seen, this time element played an important role in both cases.

The grievant in *Foote Brothers* was hired in October 1948 to perform factory work. By the time he was discharged, July 1949, he had become a shop steward, recording secretary of the local union, and generally influential in urging the strike that occurred just before his dismissal. Basically, there were two charges against him: (1) falsification of his employment application, and (2) communism. He was guilty of the former, and there was evidence to support the latter charge.

The company's evidence was obtained in a peculiar manner. It appears that the firm engaged the services of a private detective to check on the grievant's background when he became important in the union. At one time, the detective obtained information by posing as an F.B.I. agent. The firm discovered that the employee (1) had a college education and had been active in left-wing organizations while a student, (2) had worked for the United Electrical Workers as an organizer and had been jailed in connection with union activities, and (3) had falsely listed certain employment experience.

In upholding the union's grievance, Arbitrator John Day Larkin questioned the company's motive. He saw significance in the one month lag between the time the company learned of the grievant's misrepresentations and the date of the discharge. In not acting upon its knowledge promptly, the company was found to have waived its right to discharge the grievant. The motive for dismissal, Larkin ruled, was the company's fear and distrust of left-wing union leadership. That the grievant may have been a Communist was irrelevant since "even a Communist is entitled to earn a living as long as he is acting within the law."[21]

An equally complex set of circumstances faced the Board of Arbitration that decided the important *Cutter Laboratories* case. The dismissed employee, a former president of the local union, was employed as a clerk-typist for three years prior to her discharge. During this period she rose rapidly in the union and was known to be a very aggressive leader. She was charged with falsifying her application for work and with being a Communist, therefore not trustworthy in a vaccine manufacturing establishment.

Evidence presented at the hearing established that she was an active member of the Communist party. She had,

[18]The grievant was a Negro, but the published opinion does not indicate whether racial conflict was involved.

[19]Foote Brothers Gear and Machine Corp. and United Electrical Workers, Local 1114, 13 LA 848 (1959).

[20]Cutter Laboratories and United Office and Professional Workers of America Bio-Lab Union, Local 225, 15 LA 431 (1950).

[21]13 LA at 864.

furthermore, falsified her application for employment in not listing her college and law degrees and her experience as a lawyer in both private and government practice. It was established that the previous employment listed by her was false and that she had induced her references to lie for her.

Nevertheless, Arbitrators Hubert Wyckoff and Paul Heide reinstated her with back pay.[22] The Board of Arbitration questioned the company's motive. The grievant had joined the firm in 1946. By 1947, before she rose to importance in the union, the company apparently knew a good deal about her past. The actual discharge took place in the midst of heated negotiations over a new contract. The Board ruled that the company had waived its right to act by waiting until 1949. It implied that the discharge was prompted by union activity.

Cutter Laboratories illustrates the change in attitude toward the Communist party that occurred in the late 1940's. The arbitrators saw the matter simply as a situation in which the company found a handy reason for ridding itself of a troublesome union leader. Because of what appeared to be bad faith by the company, they upheld the grievance even though, leaving the Communist issue aside, the grievant was clearly guilty of misrepresenting herself to the company when she applied for a job. To the California Supreme Court the issue was communism as an unlawful conspiracy and just cause for a discharge. Since employment of Communists was contrary to the public policy of the state, the only possible defense was a denial of communism.[23]

The last cases pertaining to Communist activity occurred in 1952. A discharge for "neglect of duty" was upheld by Theodore J. Kheel where an employee had toured Russia and Poland and had provided the newspapers of those countries with propaganda opportunities. The employer feared loss of business from government sources, and the arbitrator agreed that the employee had a duty to refrain from activities reasonably foreseeable as injurious to the company's business.[24]

In a case at Chrysler, an employee cited in a House UnAmerican Activities Committee hearing was sent home with the agreement of the union because of unrest in the plant. The grievant signed a statement denying the charges and returned to work. He was again sent home because of further unrest, but was subsequently allowed to resume work. His grievance requesting back pay was upheld on the ground that the company's penalty should have been levied against those who threatened trouble, not against an employee who was willing to work.[25]

During the period 1947–1952, the legal status of Communists underwent change. In 1947, while Cheney referred to the lawfulness of being a Communist, the party was still on the ballot in several states. The Smith Act convictions,[26] the Internal Security Act,[27] and the Communist Control Act[28] redefined the Communist party's status under law and threw

[22]J. Paul St. Sure dissented.

[23]See n. 7, *supra*.

[24]Printers League Section and N.Y. Typographical Union, Local 6, 5 ALAA ¶69136 (1952).

[25]Chrysler Corp. and United Auto Workers, Local 7, 19 LA 408 (1952). To complete the record of Category I cases, a social worker who was dismissed for recommending left-wing literature to her clients was reinstated because the arbitrator ruled that she was merely a "misguided liberal". National Council of Jewish Women and Local 19, United Office and Professional Workers, 2 ALAA ¶67772 (1947).

[26]For example, Dennis v. United States, 341 U.S. 494 (1951).

[27]64 Stat. 987 (1950), 50 USC ¶2385 (1958).

[28]68 Stat. 775 (1950), 50 USC ¶841 (1958).

increasing doubt on the lawfulness of knowingly being a Communist. Furthermore, popular feeling about Communists and their sympathizers underwent a concurrent change. When communism came to be looked upon (or recognized) as a conspiracy to aid an inimical foreign power, an employee charged with being a Communist was not likely to get much sympathy from his union or from an arbitrator. The last two cases may, therefore, be significant. Whereas in 1947 an avowed Communist agitator was restored to his job, by 1952 a printer who gave interviews to Russian and Polish newspapers while on vacation there was found to have been properly discharged. The auto worker whose pay was restored had denied the allegations against him. Had he admitted them, it is unlikely that he would have kept his job.

Table 3. Category I Cases by Year of Award.

Year	*Grievance Denied*	*Grievance Sustained*	*Total*
1947	0	2	2
1948	1	1	2
1949	0	2	2
1951	1	0	1
1952	2	1	3
Total	4	6	10

CATEGORY II: REFUSAL TO TESTIFY

Some seventeen published cases fall into this category, of which fifteen involved refusals by employees to testify before congressional or state legislative committees as to present or, in some cases, previous Communist associations and activities. In one case the refusal took place before a Grand Jury, and this was the only instance where a conviction for contempt was involved in the arbitration.[29] One case involved a refusal to rebut charges made at a congressional hearing.[30] In at least six of the cases, union leaders or militants were involved.

In practice, the grounds for discharge varied, and in a few cases employers said that the "refusal to testify," per se, was not at issue. In dealing with "refusal" cases, arbitrators were faced with the problem of reexamining further the meaning of "just cause" in labor agreements that were not drawn up with this problem in mind. The "refusal" cases resemble the Communist activity cases in that they involved outside activities of employees. It is probable that some of these disputes would have arisen had employers learned of such outside activities in other ways than exposure at legislative hearings.

The bulk of the awards fall into the period 1952–1958. It will be remembered that anti-Communist feelings ran high in these years and that there was considerable public debate over the propriety of claiming the Fifth Amendment privilege, and over what could be inferred from it. Arbitrators could find little help in the realm of public policy in regard to the employment rights of those who "took" the Fifth Amendment.

It is difficult to assess the motives of employers in discharging such workers. Since a number of union leaders[31] were involved, one can suspect that a desire to rid themselves of left-wing union leadership may have moved some employers. More likely, some employers did not want suspected Communists in their plants because (1) they might jeopardize future government contracts, (2) the

[29]Consolidated Western Steel and United Steelworkers, Local 2058, 13 LA 721 (1949).

[30]N. 33 and 34, *infra*.

[31]In seven out of the seventeen cases examined.

employer did not wish to provide employment for persons he thought were disloyal to the nation and to himself, and (3) because the employer feared the opprobrium that the presence of these persons attached to his firm. In regard to the first of these, congressional committees put pressure on employers to discharge persons who refused to testify.[32] A number of employers, it should be noted, offered to reinstate employees who were willing to testify or to "clear" themselves in some acceptable fashion.

There were four principal reasons given by arbitrators in denying the grievances under this category: (1) economic position of the firm; (2) dissension among the work force; (3) loss of faith in the employee; and (4) security risk (not connected with the government's industrial security program). In upholding grievances, arbitrators relied almost exclusively on the concept that a claim of the self-incrimination privilege was constitutionally guaranteed and that it did not imply any sort of guilt. In the paragraphs below some of the cases will be examined pursuant to this analysis.

In the *Los Angeles Daily News*[33] case, two editorial writers were charged with communism at a House UnAmerican Activities Committee hearing. Neither took any steps to deny the charges.[34] As a result, one was discharged and the other, who had been laid off for other reasons, was taken off the rehire list. Arbitrator Paul A. Dodd denied their grievances, stating that the company was entitled to protection from adverse criticism and attack that threatened to diminish its circulation and weaken its chances for economic survival. In addition, Dodd referred to the death of American soldiers in Korea and stated that in the struggle between two ideologies communism represents conquest, espionage, and deceit, while the American way of life stands for peace, private enterprise, and freedom.[35] The implication was that the ideological reason was as controlling as the economic one.

Danger to the firms' ability to obtain government contracts was cited by arbitrators in upholding discharges in *Burt Manufacturing*[36] and *Westinghouse Airbrake*.[37] The grievant in *Burt Manufacturing* was charged with being a "poor security risk," although the federal security program was not involved. He had once run for public office on the Communist party ticket and had served as secretary of the local Communist party in 1943. A former president of the local union, he had resigned his union office when the Taft-Hartley non-Communist affidavit requirement went into effect. His discharge came after his refusal to answer 109 questions of the Ohio UnAmerican Activities Commission.[38]

Westinghouse Airbrake was more complex. The two grievants were long-term employees with thirty-five and thirty years of service, respectively. Both were union leaders and one, president of the local, had signed a Taft-Hartley affi-

[32]As is Bethlehem Steel Co. and United Steelworkers, 24 LA 852 at 853 (1949).

[33]Los Angeles Daily News and American Newspaper Guild, L.A. Newspaper Guild. 19 LA 39 (1952).

[34]Technically, no refusal to testify before a committee was involved here, but the circumstances of the case make it virtually identical with the "refusal" cases. The company offered to drop charges against one grievant if he swore that the charges were false. The grievant refused the offer.

[35]19 LA at 39.

[36]Burt Manufacturing Co. and United Steelworkers, 21 LA 532 (1953).

[37]Westinghouse Airbrake Co. and United Electrical Workers, Local 610, 27 LA 265 (1956).

[38]Arbitrator Morrison also upheld the discharge on the grounds that internal discipline was affected by workers' objection to the grievant's presence. 21 LA at 534.

davit. The company conceded that both were good employees and that its relations with them in their role as labor leaders had been satisfactory. At a hearing of a Senate Committee the men were identified as having been Communists. The men testified that they were not Communists now, but claimed the Fifth Amendment privilege on matters pertaining to the past. The company gave them ninety days to "clear" themselves, and thereafter discharged them.

The company's principal argument was economic. Although neither grievant required a security clearance, the company feared the loss of potential defense business. Testimony was given that the Senate Committee had exerted pressure to have the men discharged, and that the Air Force had held up a contract award.[39] Arbitrator Harry Abrahams upheld the company under these circumstances and added that under the Communist Control Act[40] the burden of proof of non-Communism in a defense plant is on the employee.

As in the Communist activity cases,[41] employers cited as reasons for discharge the dissension among their employees that stemmed from the presence of a suspected Communist among them. Arbitrators were prone to demand some proof of this and of the damage it caused the firm, perhaps because refusal to testify was not viewed as conclusive evidence of guilt. In *Burt Manufacturing,* dissension was one of several reasons for upholding the discharge. When, however, the employer argued in *Republic Steel*[42] that, among other things, the grievant's presence provoked unrest, Arbitrator Harry H. Platt rejected this ground, saying that a group of employees cannot bring about a discharge and that the company had done nothing to allay the unrest. In *RCA Communications*[43] Arbitrator Sam Harris found that no disruption in employee morale had, in fact, occurred.

In a number of "refusal" cases, the employers charged that the grievant was a security risk and as such ought to be discharged. The accusation presumably had particular relevance when the grievant had been identified as a present or former Communist in the proceedings at which he refused to testify. Arbitrators tended to be wary of a security-risk charge as a basis for discharge, where the refusal to testify was the critical issue. In *Republic Steel*[44] the arbitrator ruled that there was no proof that the employee was a security risk, that he was not on a job requiring clearance, and that even if he were on a sensitive job he need not be fired but merely moved to non-sensitive work, if available. In short, this issue was found to be irrelevant.

Security was also raised as an issue in *Pratt and Whitney Co.*[45] An employee was identified in congressional hearings as a former Communist, swore that he was not now a Communist, and refused to testify in regard to his past. The company then asked him to "clear" himself. Arbitrator John T. Dunlop ruled specifically that no security element was in-

[39]27 LA at 270.

[40]Communist Control Act of 1954, 68 Stat. 775 (1954), 50 U.S.C. ¶841 (1958).

[41]For example, Jackson Industries, n. 13, *supra.*

[42]Republic Steel Corporation and United Steelworkers, Local 1089, 28 LA 810 (1957). Also see Chrysler Corporation and United Auto Workers, Local 3, 18 LA 836 (1952).

[43]RCA Communications, Inc. and American Communications Assn., Local 10, 29 LA 567 (1957). Grievants here claimed First Amendment privileges.

[44]N. 42, *supra.* Grievant was identified as a former Communist at the House UnAmerican Activities Committee hearings.

[45]Pratt and Whitney Co. and United Automobile Workers, Unity Lodge, Local 405, 28 LA 668 (1957).

volved in the grievant's work, and no opportunity existed for the grievant to clear himself. In an *obiter dictum,* the arbitrator stated that refusal to testify is not necessarily ground for discharge, although the privilege is not so broad as to protect all persons who resorted to it. Similarly, Arbitrator Harris warned that no inference could be drawn by the company from a refusal to testify that an individual was a threat to the security of a company's facilities or to the nation.[46]

A different viewpoint was expressed by Arbitrator Charles S. Desmond in the *Bethlehem Steel* case.[47] Three men were discharged after refusal to testify at Senate Committee hearings. The company offered to reinstate them if they "cleared" themselves by offering to testify.[48] At arbitration hearings, two of the men stated that they were not currently Communists. The third stated that he had never been a Communist or a sympathizer, but had belonged to the International Workers Order (a fraternal insurance organization alleged to be a Communist front). The work was not classified as sensitive. The arbitrator upheld the company on the basis that the men were security risks. In his decision he stated that he was impressed by the union's policy of ousting Communist officers, and also pointed out that the Pennsylvania Unemployment Insurance Commission held that discharges for refusal to testify were for due cause. On the other hand, Desmond ruled that the company's other ground, conduct detrimental to the business interests of the company, was invalid even though the Senate Committee had recommended that government contracts be withheld unless the men were discharged.

Loss of faith in the employee as "just cause" for dismissal was upheld several times in awards involving journalists. In the *New York Times* case,[49] Arbitrator Edward P. Corsi upheld the discharge of a copy reader on the ground given by the employer—that he had lost confidence in the grievant's ability to deal objectively with foreign news. Grievant had admitted to the company, after being subpoenaed, that he had twice been a Communist party member before his employment began. The *Times,* at arbitration hearings, stated that if the man had worked on the sports desk instead of the foreign desk, he would not have been discharged. The *New York Mirror* case[50] is more complex. The grievant had refused to testify before a Senate Committee in regard to past membership in the Communist party, but had denied current membership. The company charged that his public testimony was good and sufficient reason for dismissal and made no other allegations. Arbitrator Burton B. Turkus held that a rewrite man's job was "sensitive," since newspapers play a vital role in the cold war. "The undeniable fact is that the grievant is in a position where he has the opportunity and capacity to do incalculable harm if he is so inclined."[51]

Many arbitrators stressed the protected nature of a refusal to testify on the basis of the Fifth Amendment. Resort

[46]RCA Communications, n. 43, *supra.* Grievants had been denied security clearance and worked in non-sensitive positions. In both of the above cases the grievants had, on occasion, testified that they were not *then* Communists.

[47]Bethlehem Steel Co. and United Steelworkers, 24 LA 852 (1955).

[48]A fourth man accepted the offer and was reinstated.

[49]New York Times and American Newspaper Guild, Local 3, 26 LA 609 (1956). Also see Hearst Publishing Co., San Francisco Examiner Div., and American Newspaper Guild, Local 52, 30 LA 642 (1958).

[50]New York Mirror and American Newspaper Guild, 27 LA 548 (1956).

[51]*Ibid.,* at 551.

to the Fifth Amendment is a person's privilege.[52] No inference of guilt may be drawn from it.[53] It is not an industrial offense, and not a violation of law.[54]

Arbitrators who upheld grievances because no inference of guilt could be drawn from the invocation of the Fifth Amendment found some strong guidelines from the federal courts. *U. S. ex rel Belfrage* v. *Shaughnessy*[55] was cited several times. There the court said that "whatever the underlying motivation, an invocation of the Fifth Amendment is no ground at all for an inference of guilt or of criminal proclivities."[56] In *Spector* v. *United States*,[57] also cited several times, the court held that "the privilege [against self-incrimination] is for the innocent as well as the guilty."[58] The right to refuse to testify was upheld even in cases where the grievance was denied on other grounds.[59]

An attempt to provide an analysis for particular cases was made by Professor John Dunlop, arbitrator in the *Pratt and Whitney* case referred to above. He suggested that six points be weighed in each case: (1) the degree of defense criticality of the plant; (2) the degree of defense criticality of the grievant's work operation; (3) the degree of current affiliation or attachment to the objectionable organization; (4) the degree of past attachment or involvement with the objectionable organization; (5) the degree of commitment regarding future relationships to such organizations; and (6) the employee's work record.[60]

A closer look at this analysis reveals some difficulties. It can be argued that points (1) and (2) are properly within the realm of the government's security program, unless the collective agreement contains specific provisions pertaining to other types of security determination. The other four points, furthermore, might require the type of trial hearing that cannot be held under arbitration auspices. Witnesses, for example, might be unobtainable. Nevertheless, arbitrators have probably taken these points into consideration, albeit in an informal fashion.

Perhaps the most interesting of the "refusal" cases was *Westinghouse Electric* in which the employer first claimed that refusal to testify was ipso facto ground for dismissal—and not arbitrable—and then, when forced by the courts to arbitrate, gave as basis for dismissal most of the reasons cited in various similar arbitrations. Arbitrator James Hill reinstated the employees with back pay because (1) resort to the Fifth Amendment

[52]United Press Assn. and American Newspaper Guild, 22 LA 679 (1954). Arbitrator George A. Spiegelberg ruled in favor of the employee but stated that just cause existed in that the employee's behavior might prejudice the employer's business. However, the employer had failed to make this charge in the letter to the union explaining the reason for the discharge. An action by the union to compel enforcement of the award was dismissed on the ground that the arbitrator had exceeded his jurisdiction in going beyond the question of just cause. Farson v. United Press, 154 N.Y. 2d 741 (1956).

[53]Worthington Corp. and United Electrical Workers, Local 259, 24 LA 1 (1955).

[54]Republic Steel, n. 42, *supra*, where Arbitrator Platt noted that there may be practical reasons why a person would refuse to testify. Westinghouse Electric Corp. and International Union of Electrical Workers, Locals 315 and 1581, 35 LA 315 (1960).

[55]212 F. 2d 128 (2d Cir. 1954).

[56]212 F. 2d at 130.

[57]193 F. 2d 1002 (9th Cir. 1952).

[58]193 F. 2d at 1006. Also see Grunewald v. United States, where the Supreme Court said that "one of the basic functions of the privilege is to protect innocent men." 353 U.S. 391 at 421 (1957).

[59]As in Consolidated Western Steel, *supra*, where Arbitrator Spencer Pollard sustained the discharge because, among other things, the employee served a jail sentence for contempt of court because of refusal to testify and this constituted unauthorized absence from the job.

[60]28 LA at 672.

is not in itself a sufficient ground for discharge and no inference of guilt can be made from it; (2) there was little evidence of serious effect on employee morale; (3) security regulations did not require their discharge since they did no classified work; (4) the congressional hearings revealed nothing not known previously to the employer, the F.B.I., or the Navy Department; and (5) the claim of falsification of employment applications was not a sufficient basis for discharge.[61]

In summary, where grievances were denied a variety of reasons was given. Those frequently mentioned were economic injury to the firm, particularly from inability to obtain government contracts, security risk, and loss of faith in the employee. Where grievances were upheld, the no-inference doctrine was given in virtually all cases. Absence of proof that employee morale was seriously affected and absence of a security element were also frequently mentioned by arbitrators.

CATEGORY III: SECURITY RISKS

The U.S. government's security program for employees of defense contractors has led to arbitrations in regard to the method of its application in particular instances. Although the question of whether or not an employee is a security risk is usually beyond the arbitrator's power of determination, the question of what to do with him is not. The government does not require the discharge of a security risk. It merely specifies that he may not work in any part of a plant where he has access to classified matter. If a plant can be divided into sensitive and non-sensitive areas so that persons without clearances are physically barred from the former, a security risk may, at least in theory, work in the latter part.[62]

Eight cases of this category are reported in the BNA *Labor Arbitration Reports*. Six deal with discharges or layoffs resulting from the operation of the industrial security program. Two involve employees of private contractors on federal property whose badges or passes were revoked by the government. Of the eight grievances, only two were upheld and both under rather special circumstances.

The power to determine whether non-sensitive work is available, so that an uncleared employee need not be discharged, has been held to be a matter of management prerogative. In *Bell Aircraft*[63] back pay was requested for a worker discharged when clearance was denied and reinstated after appeal. The union claimed that the company had violated the discharge procedure, could have found alternative employment for the grievant, and had initiated the government's action because the employee was active in the union. Arbitrator Shister denied the grievance, ruling that the ordinary discharge procedure did not apply to non-disciplinary cases, and that the company had a sound basis for deciding that no unclassified work was avail-

[61]Westinghouse Electric Co. and International Union of Electrical Workers, Locals 315 and 1581, 35 LA 315 (1960). The matter was held to be arbitrable. Carey v. Westinghouse Electric Corp., 14 Misc. 2d 239, 178 N.Y. 2d 846 (Sup. Ct. 1958), *modified*, 6 A.D. 2d 582, 180 N.Y. 2d 208 (1st Dept. 1959), *aff'd mem.* 6 N.Y. 2d 934 (1959).

[62]U.S. Department of Defense, *Industrial Security Manual for Safeguarding Classified Information* (Washington: U.S. G.P.O., 1956), Section I. However, it is illegal for a member of a Communist-action organization, as defined by the Subversive Activities Control Board, to engage in employment in a Defense Facility, as defined by the Secretary of Defense, Internal Security Act, 64 Stat. 992 (1950), 50 U.S.C. ¶784 (1958).

[63]Bell Aircraft and United Auto Workers, Local 501, 16 LA 234 (1951).

able to the grievant. The labor agreement provided that the company could take reasonable action in the event that a clearance was denied. As for the third point, the arbitrator ruled that the union had not proved its case. The U.S. Air Force officers involved refused the union's request to testify. The possibility of bad faith by the company was thus left unexplored.

Virtually the same circumstances were found in *Liquid Carbonic Corp. and United Automobile Workers, Local 757.*[64] An employee was suspended when his clearance was denied. The company contended that it could not segregate unclassified from classified work. A charge of bad faith was also levelled. The grievant had been a militant member of the United Electrical Workers. While the company implied that the union was not vigorous in prosecuting the case, the union charged that management deliberately initiated the clearance procedure because of the grievant's union activity. Arbitrator Baab's decision to deny the grievance hinged on the management rights clause in the contract.

Even where unclassified work is available—work that the worker was doing at the time of his discharge—management may have the right to judge that the presence of a security risk may jeopardize the firm's ability to secure future government contracts. This finding was made by Arbitrator Whelan in *Wisconsin Telephone Co. and Communications Workers of America.*[65] It may be noted that the grievant in this case was president of the local union and was one of eighty-three PBX installers. In anticipation of more government contracts, the firm requested clearances for fifteen to twenty of these installers. The arbitrator's opinion did not go into the possibility of discrimination for union activity.

In some instances, companies not only selected names for security clearance, but also did the clearing themselves. This led to arbitration in *Arma Corporation and Engineers Assn. of Arma (Ind.).*[66] The labor agreement permitted the company to give an unpaid leave of absence to any employee whose clearance was denied. Using power granted to it under the government's security program, Arma denied clearance to an employee without a hearing. Arbitrator Shake ruled that this constituted a violation of the agreement, in that the agreement did not intend one party to have such power. If the man's clearance had been handled by the government, he would have been entitled to a hearing.

Inevitably, seniority problems arose in connection with the possibility of transfer. The issue was mentioned in *Liquid Carbonic,*[67] when the arbitrator referred to the firm's inability to bump a senior employee in order to provide work for an uncleared worker. In *Rudolph Wurlitzer and Plant Guard Workers*[68] a guard, who was suspended pending security check, sought a non-sensitive position. The only non-sensitive position that the guard could fill was held by an employee with greater seniority. Since the labor agreement did not permit a junior employee to bump a senior one, and since the union had refused to waive the seniority clause so that the two men could trade jobs, the arbitrator ruled in favor of the company.

What to do when a security clearance was denied, but several years later granted, was the problem in *Lockheed*

[64] 22 LA 709 (1954).
[65] 26 LA 792 (1956).
[66] 22 LA 325 (1954).
[67] N. 64, *supra.*
[68] 18 LA 648 (1952).

Aircraft.[69] An inspector, denied clearance in July 1953, was downgraded to a non-sensitive job when, after four months, clearance procedures were still not completed. In July 1954 the clearance was denied. Four years later the employee asked that his case be reopened, and in due time (six months) clearance was granted. The employee then asked for reinstatement to his old job classification with seniority, pay equal to that received when he held the job, and application by the employer to the government for restoration of lost pay. A contract provision to this effect existed to take care of situations in which clearance was erroneously denied. Arbitrator C. A. Warns denied the grievance because no retroactive determination of a prior error was made by the clearing agency.

Federal security actions tend to supersede the discharge provisions of collective agreements when the company is a contractor on federal property. In one case, where a Pentagon cafeteria worker's discharge was sought by the government, the worker was reinstated by the arbitrator. Arbitrator Seibel appeared convinced that a miscarriage of justice had occurred, but his action to reinstate hinged on the fact that the cafeteria was open to the public. His ruling that the firm's contract with the Defense Department does not take precedence over its collective bargaining agreement did not serve to set a precedent, as will be seen below.[70]

A cook in the Naval Gun Factory cafeteria was dropped from the payroll when her badge was revoked by the Navy Department. No hearing was afforded in the case. The union filed a grievance against the employer, a concessionaire, charging that the company must bargain with it, not with a third party; that is, the government. In the union's opinion, the cook had been improperly discharged. The company contended that it had not discharged the grievant in the ordinary sense of the word and had no control over the actions of the Naval Gun Factory. Arbitrator Nathan Cayton ruled for the employer, stating that the grievant's case was against the government rather than against the company.[71]

The employer's responsibility for initiating the security clearance procedure apparently may lend itself to use against active unionists with possible left-wing backgrounds. It may be significant that the charge of discrimination was raised in three of the cases. Since the National Labor Relations Board does not interfere in security cases, the only arbitrable determination left, once a clearance has been revoked, is whether non-classified work is available. The doctrine that such a determination is a managerial prerogative closes another door, but does not close it firmly. Leaving aside the issue of discrimination, the propriety of a discharge where non-classified work may be available *is* arbitrable,[72] and collective bargaining agreements in industries that do defense work tend to make some provisions for this.[73]

[69]Lockheed Aircraft Corporation and International Association of Machinists, District Lodge 33, 35 LA 364 (1960).

[70]National Food Corporation and United Cafeteria and Restaurant Workers, Local 471, 24 LA 567 (1955).

[71]M & M Restaurants, Inc. and Cafeteria and Restaurant Workers Local 473, 29 LA 202 (1957). The grievant lost a subsequent suit against the Secretary of Defense, *Cafeteria Workers, Local 473 v. McElroy*, 367 U.S. 886 (1961).

[72]As in Fitzgerald v. Sperry Gyroscope Co. ———N.Y.S. 2d———, 22 LA 186 (Sup. Ct. 1954), *aff'd mem.*, 283 App. Div. 1036, 131 N.Y.S. 2d. 873 (1st Dept. 1954).

[73]An example is the agreement between Cornell Laboratories and International Association of Machinists, reported in Bureau of National

CONCLUDING COMMENTS

The Communist activity cases illustrate a change in attitude toward communism and allied activities that was well-nigh general throughout the nation. Arbitrators, who are probably as sensitive toward such changes as other people, accepted the new outlook. A few cases demonstrate this point. *Spokane-Idaho*[74] and *Curtiss-Wright*[75] reflect a belief that communism and pro-communism are obnoxious but lawful forms of political activity. In the *Foote Brothers*[76] and *Cutter Laboratories*[77] arbitrations, employers were barred from using such activities as a basis for ridding themselves of militant union leaders. The California judiciary's finding that communism was a cause for discharge that overrode all other defenses, despite the protection of political activity in the California Labor Code,[78] may have been influential in shaping arbitrators' attitudes. In any event, it was symptomatic of the times. By 1951–1952, during the Korean War, the discharge of a typesetter for a (left-wing) typographical "error" was upheld in the face of a contract provision barring discharges for typographical errors. The error may have been willful and the employee had an allegedly Communist background.[79] In *Firestone,* provocative statements about the relative merits of the U.S. and the U.S.S.R. made in conversation at work were held to be just cause for discharge.[80]

It may be noted that in the earlier of the two periods, denial of the grievance was the exception, whereas in the later period the reverse was true. Thus, in *Jackson Industries*[81] the CIO Industrial Union Council's swift action in dropping the grievant from membership may well have influenced the arbitrator. The unrebutted revelation that the grievant was a figure of *national* importance in the Communist party also may have contributed to the decision. In the later period the only grievance upheld did not involve a discharge—merely some back pay—and the grievant had signed a denial of the charges made against him at a legislative hearing.[82]

In contrast to Communist activity, refusal-to-testify cases show an ambivalence among arbitrators paralleling the confusion in the public's mind. The attitude that a resort to the privilege against self-incrimination is legitimate pervades the cases. Most of the instances of upheld grievances rest on this basis. Where grievances were denied, economic impact on the firm from possible loss of customers and loss of confidence in the employee were the principal reasons. In-

Affairs, *Collective Bargaining Negotiations and Contracts,* 65:15 (1959).

"Abuse of right to remove employees for security reasons: The Union recognizes that the Company has certain obligations in its contracts with the Government pertaining to military security, and agrees that nothing contained in this contract is intended to place the company in violation of its security agreement with the Government. Therefore, in the event the U.S. Navy or any other Government Agency concerned with the military security regulations of the Cornell Aeronautical Laboratory, Inc. advises the company that any employee is restricted from work on or access to classified information or material, the Union will not contest any action that Company must take to comply with its contractual obligation to the Government. Any claim that the Company has applied the provisions of this clause unfairly or improperly shall be subject to the grievance procedure and arbitration provisions of the contract."

[74]N. 14, *supra.*

[75]*Ibid.*

[76]N. 19, *supra.*

[77]N. 10, *supra.*

[78]California Labor Code ¶1102.

[79]Publishers Association and International Typographical Union, Local 6, 19 LA 40 (1952).

[80]Firestone Tire and Rubber Co. and United Rubber Workers, Local 100, 4 ALAA ¶68778 (1951).

[81]N. 16, *supra.*

[82]N. 25, *supra.*

deed, employers frequently claimed that the refusal to testify was not in and of itself the basis for their action. If the newspaper arbitrations are separated as being special cases, the number of reported awards upholding grievances far exceed the denials. In seventeen reported arbitrations, grievances were sustained in nine awards and denied in eight. Without the five newspaper cases, the score reads eight upheld and four denied.

Table 4. Category II Cases by Year of Award.

Year	*Grievance Denied*	*Grievance Sustained*	*Total*
1949	1	0	1
1952	1	1	2
1953	1	0	1
1954	0	2	2
1955	1	1	2
1956	3	2	5
1957	0	2	2
1958	1	0	1
1960	0	1	1
Total	8	9	17

Considering the size of the government's industrial security program, the number of arbitrations on the subject is remarkably small. Eight reported cases were located in all, and it may be significant that the grievances were denied in six of them. Although it is widely assumed that federal security regulations supersede the collective agreement,[83] and although the determination of security risk is generally beyond the scope of arbitration, the great potential for arbitrating tangential issues has never been realized. The right of the employer to determine whether unclassified work could be provided did arise, as did some seniority problems. By and large, arbitrators tended to resist the notion that a person not subject to the security program should be discharged as a security risk.

Table 5. Category III Cases by Year of Award.

Year	*Grievance Denied*	*Grievance Sustained*	*Total*
1951	1	0	1
1952	1	0	1
1953	0	0	0
1954	1	1	2
1955	0	1	1
1956	1	0	1
1957	1	0	1
1958	0	0	0
1959	0	0	0
1960	1	0	1
Total	6	2	8

Such industrial case law as has emerged from arbitrations gives employers fairly wide latitude in dealing with "loyalty" cases. Emerging within a framework of private and public policy that shifted at about the time of the Korean War, this law is narrowly based. Four national unions account for over half of the cases. All of them are industrial unions. Only one has ever been charged with being Communist-dominated. The narrowness of this base may give rise to speculation about the value of these cases as precedent, should public feeling turn against other political or ideological activities and opinions.

[83] "As a matter of public policy, unions and employers must recognize that this 'Security Agreement' [signed by every contractor for services or supplies with defense agencies] must be superimposed upon the collective bargaining agreement, which, in turn, must be viewed as being modified to the extent that this contract with the government prescribes the employer's discretion in the employment or continued employment of employees on classified information...." Benjamin C. Roberts, "The Arbitration of Alleged Security Risks," in Jean T. McKelvey, ed., *Arbitration Today* (Washington: BNA Inc., 1955), p. 66.

FACT-FINDING IN LABOR DISPUTES: THE STATES' EXPERIENCE

HERBERT R. NORTHRUP

A PERSISTENT proposal to avoid costly strikes would have unions and management submit their disputes to impartial "fact-finding" by responsible third parties; if the disputants do not agree, the fact-finding may become compulsory, or be converted into an "investigation." In either case, the idea is that when the facts are known, agreement will be induced on the basis of the facts made apparent to unions and management, or if either or both remain obtuse to the facts, by public opinion forcing them to see the light.

Fact-finding has had its most complete exposure under the Railway Labor Act. Most observers agree that it has not worked in either the railroad or airline industry as the theory dictates.[1] In the first place, the facts are rarely in doubt—the interpretation thereof, however, is usually not only in doubt, but also in controversy, and not subject to objective determination (What is a fair wage? What pertinence is a contract provision in another industry?). In the second place, public opinion has not risen to enforce fact-finding recommendations. Rather, they have been ignored with impunity. And finally, instead of strengthening, or supplementing collective bargaining, fact-finding has tended to supplant it in the railway and airline industries. The parties no longer prepare to bargain; rather, they prepare for a fact-finding proceeding. Bargaining, if it occurs, is more likely after the fact finders report. Then if no agreement is reached, the fact-finding procedure is not available—it has been used up as part of the tactics of the parties.

Is this experience indigenous to the Railway Labor Act, or the railway or airline industries, or is it inevitable under fact-finding procedure? The question is significant because fact-finding remains a popular political remedy. Greater use of it in so-called emergency strikes has been suggested recently by

Fact-finding, as one of the traditional tools of government to adjust labor disputes, is evaluated in this study on the basis of a survey and analysis of the experience of the states. It is concluded that the device, if sparingly employed, may be useful to its purpose but can easily become a hindrance to effective collective bargaining if invoked indiscriminately and with too much frequency.

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[1]See, e.g., H. R. Northrup and G. F. Bloom, *Government and Labor* (Homewood: Richard D. Irwin, 1963), Chap. 12; David Levinson, "The Railway Labor Act—The Record of a Decade," *Labor Law Journal,* Vol. 3, January 1952, pp. 13–29; J. J. Kaufman, "Emergency Boards under the Railway Labor Act," *Labor Law Journal,* Vol. 9, December 1958, pp. 910–920, 949; and Herbert R. Northrup, "The Railway Labor Act and Railway Labor Disputes in Wartime," *American Economic Review,* Vol. 36, June 1946, pp. 324–343.

[post 1963]

PROBLEM FOR ARBITRATION

THE UNIVERSITY OF WISCONSIN
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Arbitration

INSTITUTE OF INDUSTRIAL RELATIONS

AN ARBITRAL ANSWER TO A JUDICIAL DILEMMA: THE CAREY DECISION AND TRILATERAL ARBITRATION OF JURISDICTIONAL DISPUTES

by

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Reprint No. 142

UNIVERSITY OF CALIFORNIA
LOS ANGELES 24, CALIFORNIA
1964

Essay 7. Vita

Arbitration

PSYCHOLOGICAL TESTING AND ARBITRATION DISPUTES

1947 - 1964

by

George Hagglund

The University of Wisconsin

PSYCHOLOGICAL TESTING AND ARBITRATION DISPUTES

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INTRODUCTION

American employers, in a never-ending search for employees better fitted for jobs in their companies, have employed a wide variety of selection methods and procedures to assist them. While some of their methods of selection have satisfactorily withstood the tests of time and critical analysis, others, like graphology and phrenology, have come to be generally discredited[1,2]. In recent years employers have taken in increasing numbers to the use of psychological tests, whose true worth as a selection device is still being assessed. This paper will attempt to show the reactions of one segment of American society to the increased use of psychological tests in industry.

Size of place?

factors?

The typical employer of yesteryear, through his agent the department foreman, most often hired employees after he had a chance to observe their performance on a few tasks of the job, or after a few days of actual work. If they did not measure up to the foreman's expectations, they were bounced out the door. After a time, particularly in the larger companies, the foreman's duties of hiring were assumed by the personnel man, who did not have the same opportunities for evaluating worker performance that the department foreman did. He substituted "tests" of one kind or another that were in effect an extension of the old performance evaluation of the foreman.

During the decade following World War II, employers began taking considerable interest in aptitude and personality tests then attracting attention following their usage in the United States Armed Forces during the war. Employers, anxiously trying to fill their jobs

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in a changed world characterised by large cities teeming with countless thousands of unknown workers, saw in psychological tests a means by which they could glimpse the good and bad attributes of workers before they were on the payroll. The emergence and growth of powerful labor unions, with their insistence upon rational promotion, layoff and hiring procedures, increased the difficulties of laying off or discharging inferior workers. Both of the preceding considerations encourage employers to seek selection tools that would assist them in evaluating the human factor in industrial production[3].

The demand for improved employee selection methods placed considerable pressure upon social scientists to develop tests of work aptitude and employee personality. The industrial psychologists responded by developing general aptitude tests that could be used in a variety of industries or by transferring to the industrial setting tests developed and used in the clinical or educational spheres. A lucrative commerce in psychological tests came into being, with companies formed for the purpose of exploiting the new market for tests. Employers began to develop trade and aptitude tests for use on their own employees for purposes of filling their particular jobs.

Almost universally, the objectives of employers was to select employees for purposes of maximizing production and increasing worker efficiency. Their intent was to use the tests to secure for themselves the cream of the local labor market.

Following the increasing use of psychological tests in industry, labor unions began noting their existence. In a few instances, they publicly complained about what they considered to be misuses or

abuses of the principles of psychological testing. They demanded, on other occasions, that employers explain the purposes of the tests or that "proof" be given them that tests actually did what they were intended to do. More often, however, unions were interested only in determining what the employers' intentions were, trusting the seniority clauses of their labor agreements to protect employees' rights to promotions and related matters. A few labor officials such as Solomon Barkin[4] and Otis Brubaker[5] expressed misgivings about the manner in which companies were using psychological tests. Their major reservations had to do with what appeared to them to be a systematic undermining of the principle of promotion according to length of service, which labor organizations were heavily committed to. In other instances they accused employers of trying to gain unilateral control of hiring, promotion and layoff procedures, hitherto a matter for joint determination through the process of collective bargaining. Generally speaking, however, organized labor took little interest, or foresaw little success, in trying to retard the trend toward use of psychological tests[6].

As time went on, labor organizations did find themselves involved in disputes including matters related to use of psychological tests. This paper will report on some of these disputes, and how the parties reacted to them.

PURPOSE OF PAPER

A part of the industrial relations literature will be examined to see what are the kinds of disputes involving labor and management that have to do with psychological testing. The paper will try to report on the nature and extent of participation of social scientists in labor-management disputes as well as the attitudes of labor, management and arbitrators toward the social sciences and their offspring, psychological testing.

A special effort will be made to report on company efforts to determine the validity of tests used within their own confines - for both commercially developed and tests constructed by the companies themselves. Two types of validation studies would be practiceable for a company to do: the first would involve testing a group of employees working for a company already and then correlate the predictions made on the basis of test results against ratings of employee performance (hopefully the same performance characteristics tested) made by others in the company; the second type of validation study would involve testing a group of employees, putting the test results and predictions aside without letting them influence selection decisions, allowing the workers to perform for a number of months or years, and then going back later to see if the predictions made earlier were borne out by actual employee performance.

An attempt will be made to draw some general conclusions about the manner in which psychological tests are used in industry, the effect they have had upon the objectives of workers and employers, and to determine the significance of testing in industry as it affects the social scientists that developed them. While major emphasis will

be concerned with the use of psychological tests in industry, the paper will also report on the context in which the tests were found.

METHODOLOGY

The primary source of data on which the report is based was the Bureau of National Affairs' Labor Arbitration Reports, Volumes nine through 41, covering the years 1947 through 1963. A secondary source of information was a number of verbatim transcripts of arbitration hearings, along with associated briefs, reports and exhibits submitted at six arbitration hearings. The additional information permitted more intensive examination of the experience in three companies. Findings concerning validity and reliability of tests, and concerning participation of testing "experts" is based in considerable part upon the additional information. A special effort was made to secure transcripts and material where the BNA arbitration reports indicated that the union had challenged the relevance or applicability of psychological tests.

Cases in which psychological tests were directly or indirectly involved were identified by checking digests of BNA arbitration awards and by using the topic finder at the rear of each volume of Labor Ar itration Reports. No claim is made, or intended, that the disputes reported comprise all that involve testing - it is believed, however, that those reported are fairly representative of the whole.

FINDINGS

The Disputes - Most of the disputes (90%) centered around promotions to jobs within the bargaining unit. All of those involved use of some kind of test of ability, mostly formal, but a few were informal. Of a total 41 disputes, only four involved matters other than

promotions: two decisions concerned the right to "bump" to lower jobs following reduction of force; one disputes was over a company attempt to validate a psychological test on bargaining unit employees; and the last was focused on a company's right to use tests in promotions of bargaining unit employees[6a]. While it is possible that unions were equally concerned about the uses of psychological tests in the hiring process, it is likely that the standard management rights clauses were believed to preclude them from protesting through the grievance procedures.

Surprisingly few of the BNA arbitration reports appeared to involve tests of ability - only 41 cases out of several thousand were reported for years 1947 through 1963. This number amounts to less than one percent of the total number of reported cases for a 25-year period. The results of the disputes and kind of tests used are depicted as follows:

TABLE I

Outcome of arbitration disputes involving some type of ability test - period 1947 - 1963

TEST USED	ARBITRATOR S DECISION Grievance Denied	Grievance Sustained
Written aptitude test	12	5
Job related test, written	9	3
Oral examination, job related	2	1
Personality test	3	
Merit rating	1	1
Supervisory appraisal	1	
Test battery (more than one of preceding)	10	5

Table I indicates little significant difference between type of test used and the outcome of the arbitration. Unions appeared to fare about

the same for all types of tests. While the number of disputes if too small to determine the significance of type of tests, the job related tests and personality tests appear to favor management more than union.

The Unions - Not unexpectedly it was the industrial unions that were most often involved in disputes involving testing. The following table depicts unions involved, and outcome of the disputes:

TABLE II

Union involved and outcome of arbitration dispute including testing - 1947 through 1963

UNION	ARBITRATOR'S DECISION Grievance Denied	Grievance Sustained
United Steelworkers of America	8	4
International Association of Machinists	3	2
United Auto Workers	1	2
International Union of Operating Engineers	3	
International Chemical Workers Union	2	
Independent Unions	2	
Pulp, Sulphite & Paper Mill Workers Union	2	
Oil, Chemical & Atomic Workers Union	2	
International Union of Electrical Workers	2	
International Brotherhood of Electrical Wkrs	1	
Communication Workers of America		1
United Mine Workers - District 50	1	
United Rubber Workers Union		1
Aluminum Workers International Union	1	
Bridge . . . Iron Workers Union		1
Carpenters & Joiners - Midwestern Millmen	1	
Brewery Workers Union		1
TOTALS	29	12

grouping of 2 - awk.

The arbitration record is not one to inspire optimism in unions, nor does it appear that any particular union has concerned itself to a great degree with promotion disputes including problems with psychological testing.

emphasis

The Companies - Larger corporations tended to find themselves in disputes with unions - the companies were found in a wide variety of industries, with manufacturing predominant. Companies in the following industries were reported: miscellaneous manufacturing, nine cases; steel fabrication, seven disputes; minerals & chemicals, six; public utilities, five (four of the disputes involved a single company); basic steel, four cases; electrical manufacturing, mining, pulp & paper, two each; petroleum, aluminum and food products, one each. As noted, single companies were occasionally involved in more than one of the reported disputes. Companies, regardless of industry or union with which they dealt, tended to be favored by arbitrators' decisions. ?

The Arbitrators - The Bureau of National Affairs publishes short vitae summaries on arbitrators whose decisions are reported. The summaries indicated that most arbitrators were engaged in or out of the legal profession. ? Of the 35 arbitrators included in the study, 25 were attorneys or had legal backgrounds. Of the remaining ten arbitrators, five were economists, one was a sociologist, one in education, one listed his professional background as industrial relations, and no information was available for the remaining two men. Eight of the men with legal backgrounds also had academic ties, while six of the non-lawyers were connected to academic institutions.

The backgrounds of the arbitrators indicates that most of them were not trained in the complexities of psychological testing. One arbitrator, for example, buttressed his argument for the use of psychological tests by citing the adage "you can't teach an old dog new tricks." This arbitrator claimed that he "had considerable experience in test development and use, both in army training and at the graduate school level."[8]

good example but not of "background"

don't jump too far in conclusion

Since arbitrators were expected in several of the cases to make determinations concerning the relevance, applicability and reliability of psychological tests used by employers, their apparent lack of technical understanding with the field of testing was without doubt a handicap.

Promotion

The Arguments - Psychological tests were the central issue in few of the reported cases, and the arguments of the parties showed considerable variety from one dispute to the next. A common argument used by unions contended that ability should be determined by an on-the-job trial[9], or by ability to perform the duties of the job and physical fitness.[10] In a number of disputes the union contended (usually unsucessfully) that seniority was supposed to be the primary consideration in promotions, given the existing contract language[11]. Unions contended in a number of cases that psychological testing was an unbargained innovation put into effect without prior discussion with, or agreement of, the affected union[12]. This argument, like most others, did not appear particularly persuasive to the arbitrators, judging from their decisions. Another contention employed by unions alleged that the contract tended to bar, or limit, the use of psychological tests[13]. Unions argued in several other cases that tests were an improper means of determining employee ability under the existing agreement[14]. A number of unions contended that tests used were unjust, unfair, or inequitable[15]. Other arguments employed by unions included contentions that use of tests by companies was arbitrary, discriminatory or a bad faith action[16]; that test requirements were unrealistic, unreasonable or illegitimate[17]; that tests used were invalid[18] or unreliable[19]; that the agreement provided other criteria for promotions[20]; that past practices in promotions should be adhered to during the life of

the agreement[21]; and finally, an almost desperate argument that previous arbitration awards were inapplicable to the present dispute[22].

For companies, the favored argument was the contention that seniority was a minor or lesser consideration to be taken into account in promotions, given the terms of the agreement then in force[23]. While the preceding argument was most frequently used by employers, it was also the argument most frequently associated with an award that sustained the aggrieved party. Two other arguments that appeared with considerable frequency were first, that determination of ability was a fundamental management right and that this action could be made by whatever means chosen by the company[24]; and second, that the contract either allows or does not prohibit management's use of psychological tests[25]. Another argument applied in a number of disputes contended that the company acted in good faith or, that it did not act arbitrarily, capriciously or in a discriminatory manner[26]. Other management arguments contended that employees who refused to take a test used as part of the criteria for promotions disqualified themselves for consideration (although in one case the employee had been told earlier that test results were for validation purposes only and would not affect his position with the company)[27]; that trial periods were intended for qualified employees only[28]; that determination of ability by merit rating was a long standing practice never before disputed by the union[30]; and finally, that testing was a valid requirement for promotions[31].

Tables III and IV indicate the effectiveness of the arguments used by the parties - Unions appeared to get more favorable awards where they argued that sufficient ability to perform the work was the "proper" criterion or where they argued that employees were entitled to an on-the-

TABLE III

Major Union arguments used in arbitration disputes and arbitrator's decision - 1947 through 1963

* UNION ARGUMENT	ARBITRATOR'S DECISION Grievance Denied	Grievance Sustained
Ability to perform work is enough, or on-the-job trial is required	10	4
Tests unbargained, unilaterally installed; union permission not given	10	3
Seniority intended to be major promotion criterion	4	1
Contract bans or limits company use of tests	5	
Use of tests by company is unjust, unfair or inequitable	4	1
Tests are an improper means for determining employee ability	3	
Testing is an arbitrary, discriminatory, or a bad faith action	2	1
Test requirements unrealistic, unreasonable or illegitimate	2	1
Physical fitness is the determinant of ability	1	1
Tests are invalid or unreliable	2	
Alternative criteria for promotions provided by agreement	2	
Past practices should be continued		1
Previous arbitration decisions do not apply in present dispute	1	

* Note: Since more than one argument was used in individual disputes, the preceding do not total 41

TABLE IV

Major Company arguments used in arbitration disputes and arbitrator's decision - 1947 through 1963

* COMPANY ARGUMENT	ARBITRATOR'S DECISION Grievance Denied	Grievance Sustained
Seniority not primary consideration when promoting	6	7
Determination of ability is a management function or right	9	1
Contract allows, or does not prohibit use of tests by company	9	
Company acted in good faith or did not act arbitrarily, capriciously or in discriminatory manner	4	2
Employee gave up right to promotion by refusing to be tested	1	1
Employee violated plant rules by refusing to take test; discharge justified	1	
Employer has right to remove worker from job before end of trial period	1	1
Trial period intended for qualified employees only		1
Promotion of senior man places "undue burden" upon company		1
Merit rating a company practice of long standing never challenged by union before	1	
Arbitrator not empowered to decide upon issue at dispute		1
Earlier arbitration award decided management's right to test for promotions	1	
Tests are a valid requirement for promotion	1	

* Note: Since more than one argument was used in individual disputes, the preceding do not total 41

job trial. Management appeared to be most persuasive in cases where they argued that determination of ability was a fundamental management right or where they said that the contract did not prohibit or tend to limit management's use of psychological tests.

Validity - Unions challenged the validity of tests in few of the disputes included - more often they challenged the "right" of employers to use them. Where tests were challenged on technical grounds, unions were severely handicapped by their deficient understanding of the principles, application and limitations of psychological testing.

The union succeeded in one case in pointing out that the test used by management involved a small, inconsequential segment of job duties that could be quickly learned, and for that reason was invalid[32]. In another case the arbitrator decided that the tests were valid on the basis of company testimony and "because no controverting evidence was presented by the union."[33]

An electrical utility involved in several disputes over the matter of testing submitted considerable testimony and exhibits intended to support their claims for validity of psychological tests used by the personnel department. The company used the following information to support the validity of their tests:[34,35,36,37]

1. Normative data taken from published studies of occupations and employee groups in various manufacturing industries and government agencies. The data were presented to show the arbitrator that cutoff scores used were reasonable[38].

2. Validities (coefficients of correlation) showing relationship between occupational success or final training course test score to scores of various aptitude and intelligence tests. The studies cited had been done on different occupations, and had utilized different tests than those involved in the arbitrations[39].

3. Textbook claims by various psychologists concerning the effectiveness of standardized tests widely used in schools, industry, and the clinical setting[40].

4. Twelve "problem employee" cases culled from personnel records to show the relationship between elevated T-scores on any scale of the Minnesota Multiphasic Personality Inventory and adjustment problems on the job. The problem employees were identified a posteriori; no visible, organized attempt was made by company to predict future employee behavior early in work career and later compare predicted performance with actual later behavior[41].

5. The manner in which items for the in-plant trade tests were collected and cutting scores were established was described, and validity of test was claimed because the test items were job related[42]. No other attempt was made to establish validities for the trade tests.

6. A case in which a man was killed in a power plant accident was described. The personnel manager demonstrated, again a posteriori, an alleged relationship between test performance and the cause of the accident. He also stated that the exact details and cause of the accident were unknown, but that he and others thought it was a case of "employee failure."[43]

7. A psychologist from a local management consulting firm was retained to spend one day examining the company's testing procedures and then testify at the arbitration hearing. The consulting psychologist avoided testifying about the validity of tests as applied to the disputed jobs. He described the general acceptance of tests in use by others in the profession and was detailed in his praise of the technical proficiency of the personnel department's administration and scoring of test results. He made no comment about the company's trade tests except to say they appeared to be well constructed and administered[43a]. The consulting psychologist was ostensibly brought in to testify about the validity and reliability of psychological tests used by the company.

Judgmental compared to 1-6

The preceding account is significant in that it shows the high propensity of management to accept the use of tests with far too little evidence showing that they actually do identify and predict future human behavior. The preceding indicates that little concrete evidence was presented for the validity of any test used by the company.

Another company testified concerning the validity of their tests[44]. The verbatim record of the hearing revealed that the validity study referred to was a pre-test of a group of employees to determine if they possessed "supervisory ability." The test used for this purpose was a mechanical comprehension test developed by a management consulting

firm, and a clerical ability test constructed by the same consulting firm. The tests were administered to employees of one department who were believed "qualified in the area of supervision..." The company decided, on the basis of test results, that the tests were valid. Neither of the tests used by the company have any published validities, although it was claimed at the hearing that they have been in use for years. A later request for further information yielded nothing also[45].

A personality test was found to be involved in disputes in the previously described electric utility series only. The company, in addition to the twelve problem employee cases already reported, testified at some length about the internal "validity scales" built into the MMPI[60] (the lie scale), and arranged to have the consulting psychologist testify about the generally accepted validities of the test. No quantitative validity coefficients were presented, nor did the company try to describe possible variations in personality required by different jobs in the company, although at least one published study indicates that particular jobs or departments may ideally call for distinct personality characteristics[61]. The personnel department stated that any employee scoring above 70 on <u>any</u> T-scale of the MMPI was regarded as potentially maladjusted. A diligent search of the psychological abstracts and other literature of the social sciences failed to uncover any empirical evidence supporting the company's claim that the MMPI could be used to identify potentially maladjusted employees not suited to particular jobs in industry.

There appears to be a tendency on the part of employers and union officials to accept the prestige and presumed expertise of test developers as a substitute for systematic validation studies carried

on within the company or plant itself. One case, for example, involved a driver's test developed by the "Father of Driver Education" that was widely believed to identify accident-prone individuals. In the company the test results were used as a basis for by-passing a senior employee in favor of a younger man recently hired. Diligent investigation revealed no evidence that the test had ever been validated[61a]. In the arbitration itself, no question was raised by any of the parties about whether the test could identify the accident-prone driver[61]. The arbitrator, like others in the case, assumed the test was valid and denied an employee a promotion to the job of driving an over-the-road truck.

Arbitrators in a number of cases indicated concern about whether the aptitude or other tests actually identified the most able employee, and hinted that unions could have been more concerned about the validity and reliability of tests. One arbitrator voiced concern over the possibility that an employee could score poorly on a test and yet be an excellent performer on the job, and he also questioned the "efficiency of the tester."[46] Another arbitrator noted that the employer has the "burden of proving that (the test) determined ability correctly . . "[47] Still another arbitrator commented that "the employer must show, in a case of this kind, that the determination of relative ability has been made correctly . . "[48] Arbitrator Harold Davey, on the other hand, ruled that the burden of showing how the company may have erred lay with the union, and in the case before him the union "did not offer anything against the validity of the written test or the manner of its use or its scoring."[49] An arbitrator ruled against a company in a case because he felt that the tests, as administered, were invalid[50,51]. Arbitrator Dworkin, ruling against the union in a dispute, invited the

union to challenge the validity of a test as it was applied "to the particular situation."[52] Another arbitrator, denying the grievance on other grounds, stated that "there was no evidence at all that the company had pre-tested (the test) to prove its reliability or validity for the jobs in question."[53] An arbitrator in one of the oft-referred-to electric utility decisions stated that "management has a duty to disclose the method and show the validity of tests that are used. . ."[54] Another arbitrator hearing a dispute with the same company pointed out that " . . . the validity of the test itself can be questioned."[55] When the union did so in a later case, however, the arbitrator ruled that the validity of tests had been determined in an earlier decision, and he would not reverse that ruling.

In summary, the arbitration record indicated that companies were not particularly worried about whether tests were valid or whether they actually did identify the best employees. If standardized, commercially prepared tests were available and appeared to meet their need, they were used without further question. In cases where validation studies had ostensibly been carried out by companies, the record indicated that the studies would be unlikely to earn the approval of psychologists in the American Psychological Association. There was a definite tendency for employers to test large groups of employees in a wide variety of occupations, lump the results, and make the conclusion that the test was valid for all, or any single, job or jobs in their plant. While such a study may have validity for gate hirings of totally unknown individuals, the same validity study should certainly not be used as a basis for making distinctions concerning promotions between two jobs, <u>both of which were included in the original validation study</u>, and with a performance criterion developed that was originally <u>identical for both jobs!</u> Some of the test validities cited by the companies

as "proof" of validity were selected without regard for similarity of test used, occupations involved, or performance criteria employed.

Likewise, labor officials appear to be only marginally concerned or aware of the technical aspects of psychological testing. In the few instances where the relevance, applicability and reliability of tests were challenged, unions (and their attorneys) did not appear to have a sufficiently broad enough grasp of the complexities of psychological tests to exploit the areas suggested by arbitrators and discussed earlier, so their efforts were often wasted.

Arbitrators, while occasionally expressing concern about the validity of tests as used in disputed cases, seldom let their concern influence their decisions. Since arbitrators were in the vast majority of cases lawyers and in the few remaining cases economists, it is reasonable to assume that their acquaintence with the principles of psychological testing was of a low order. This conclusion appears to be reinforced by some of the remarks made concerning tests in the decisions.

Reliability - Test-retest reliability of selection devices used by companies was seldom challenged by unions in the disputes studied. The electric utility series revealed, as did several other cases, that management based many promotion decisions, at least in part, upon test results that had been collected years prior to the dispute. Since the tests appeared to be most often administered at time of employee hire, and promotions came as much as ten or fifteen years later, then a great deal depends upon whether a test score, or personality profile, may be assumed to be unchanging. The assumption appears to be even more critical for the use of personality tests. The personnel manager of the electric utility testified that MMPI profiles for employees had been secured "ten or twelve years" prior to the arbitration disputes[56].

Studies done by other psychologists indicate, however, that personality profiles as measured by the MMPI may change markedly in a much shorter period of time. For example, an individual diagnosed as "disturbed" by the MMPI was retested four months later, and the personality profile then then appeared to be "normal" (all T-scores substantially below 70)[57]. Another individual was diagnosed as "normal", then as "abnormal" and finally as "very normal", all within a four-year period[58]. Since both of the preceding individuals had been sufficiently disturbed to require institutionalization, then it seems unsafe to assume that a ten-year-old MMPI profile reliably depicts an employee's personality configuration. A fundamental assumption of the clinical psychologists is that a "disturbed" individual will respond positively to treatment (thus, that a personality is subject to change over time).

Another arbitrator rendered a decision sustaining an employee's claim for a promotion after the union was able to introduce intelligence and mechanical aptitude test scores showing that the employee's test performance had risen during a four-and-a-half year period to levels above the cutting scores set by the company for the job[59].

Companies, unions and arbitrators seldom concerned themselves with test reliability, judging from the arbitration record. Unions seldom raised the issue, and companies, in the absence of union challenge, had little motivation to submit evidence for test reliability. Arbitrators, not being psychologists, took little note of the matter of test-retest reliability.

Cutting scores - The arbitration record indicated numerous instances where management had set cutting scores, that is, test minima that tended to separate "good" employees from "bad" risks. As far as could be ascertained from the evidence, there was seldom an empirically

valid basis for cutting scores used by companies. The electrical utility set their cutting scores for various tests after calculating the arithmetic mean for various occupational groups within their company (often groups of supervisors). In the arbitration hearing these cutting scores were defended by comparing them with the arithmetic mean scores of groups of employees tested at other companies and reported in the psychological literature. The utility set cutting scores near, or slightly below, the arithmetic means for employee groups studied, which would have the net effect of excluding many employees from consideration for employment on the jobs for which the cutting scores were intended. On one test the utility set a cutting score based upon the test results of a group of employees enrolled in a training program for power plant jobs. Then, the same test was used as part of a battery that by-passed employees with more seniority who had successfully completed the same training program (the company successfully contended the requirements of a new job were "higher" than the qualifications developed in the training program, which the company wanted to bypass[73]). The same company's training director appraised the success of trainees in the program and then helped develop the test items used in the trade test - a practice commonly deplored by psychologists because of the contaminating effect[62]. Since the same person sets the criteria for both performance and test, it is not unexpected that a positive relationship would exist between training performance and aptitude test score. The electric utility determined the cutting score for the mechanical aptitude cutting score by calculating the mean for a group of former job incumbents (all of whom had moved on to higher jobs with management) and setting a cutting score that would have eliminated the lowest-scoring of the group. The cutting score for an intelligence test was set at 110 after calculating the mean for a group of 204 em-

ployees "on a variety of bargaining unit jobs" at 118.8. No other justification was made for that particular cutting score. The company used the same cutting scores for the scales of the MMPI that were commonly employed in the clinical setting; 70, the cutting score used to tentatively identify "disturbed" individuals. The utility's electrical knowledge minimum was set at 75 percent correct after pre-testing on a group of "non-bargaining" unit supervisors[62a].

Defending a test minimum in an arbitration hearing is at best difficult for the company. To an employee and the union, a tiny difference between his test score and a "passing" one can appear very miniscule indeed. Companies typically avoided a quarrel over test minimums by stating that test results were "only part" of the considerations taken into account by management when promoting individuals[63]. Unions, generally not well prepared, did not have a line of questions sufficiently precise to bring out the arbitrary nature of test minima, or to get across the proportionate importance of the criteria determining promotions.

"Experts" - A method by which tests, test batteries, or testing programs could be discredited by unions, or justified by employers, might be to bring forth an expert to testify in their behalf. The "expert", that is, a person presumably familiar with the theory, construction, application and analysis of aptitude and personality tests, was conspicuously absent from most arbitration hearings. One psychologist, whose role has been previously described, was brought in to testify in behalf of management. The same company was also the only one that appeared to employ a psychologist in their personnel department(and he was the employment manager). The outside expert in this case was brought in to put the professional stamp of approval on psychological tests used and the manner in which they were administered and analyzed.

He (the consulting psychologist) carefully skirted the questions of test validity and reliability, although his ostensible purpose in being at the hearing was to testify on these matters.

In the majority of cases, disputes involved generally trained attorneys, management and union personnel whose interest in and understanding of psychological testing was either scanty or peripheral. Not a single union offered expert testimony or witnesses in the arbitration disputes studied.

Jobs, performance criteria, tests - Since the study was based on published arbitration decisions, most jobs fell into the categories of skilled and semi-skilled, with a few office and plant clericals involved. A sizeable proportion of jobs (about one-fourth) were in the skilled trades, a very few were office and plant clerical, a few were in the unskilled category, and the majority were semi-skilled machine operation or technical jobs.

Where skilled trades were involved, the tests used were most often written tests of job knowledge[63]. In one instance an oral trade test was utilized[64]. In two disputes a mechanical aptitude test was involved[65]. In three instances the dispute involved intelligence tests[66]. In only two cases involving the skilled trades was a test battery used[67].

In disputes centering around promotion to a semi-skilled job, disputes most often appeared to involve standardized, commercially marketed trade or aptitude test[68]. Only five disputes included standardized intelligence tests[69]. There were four disputes in which batteries made up of three or more tests were utilized[70].

There appeared to be little difference in tests used for skilled and semi-skilled jobs, except that trade tests were used slightly more often for skilled jobs and commercially developed trade tests more often

on semi-skilled jobs (this category includes aptitude tests). Intelligence tests were not conspicuous in many cases, nor were personality tests often utilized, according the to arbitration record at least. Generally speaking, the tests were intended to measure performance in fairly narrow areas of aptitude or job performance.

The arbitration record indicated that few employers had set specific performance criteria that the tests were intended to predict relative to. Out of a sample of 27 disputes, five companies gave no indication of the performance criteria, three indicated "ability to perform work", five were looking for ability in arithmetic or math, five were seeking the ability to perform technical aspects of jobs, five wanted mechanical skill and manual dexterity, and two employers were looking for the most able employees relative to ability to read and interpret drawings. Few companies were specific in the type of performance they were seeking. One employer sought the employee most apt relative to "skill, adaptability, aptitude, adjustment to new techniques, general efficiency and general background[74]". Another looked for "ingenuity, memory, analytical ability, concentration, methods, judgment, emotional stability, electrical knowledge."[75] For two cases, the arbitrator was forced to make a determination of the performance criteria used by the company, since none were indicated by testimony[76].

<u>Seniority versus ability</u> - Unions commonly requested the arbitrator to render a decision giving greater weight to the seniority factor than had been given by the company. Companies, conversely, pressed for more latitude in which to determine ability in promotions. For companies, psychological tests were but a means to improve the accuracy with which the most able employees could be identified for promotion. No attempt was made by either party to demonstrate the relationships,

if any, between length of service and profiency on the job, although the unions were in many cases asserting that such relationships existed.

The contracts provided a variety of determinationsaof the relative importance of seniority and other promotion criteria. The following table depicts those found most frequently, and the arbitration decision:

TABLE V

Types of contract clauses governing promotions, and decision of arbitrators

CONTRACT CLAUSE	DECISION Grievance Sustained	Grievance Denied
Seniority plus an on-the-job trial	1	2
Seniority for some jobs, skill and ability for part of jobs	1	
Seniority and other considerations held relatively equal	3	3
Seniority prevails where skill and ability relatively equal	3	9
Seniority has lesser or no weight for promotion purposes	1	4

The table indicates that, for the majority of companies, seniority was not solely determinative in promotions. Thus psychological tests were introduced, usually to make an estimation of ability. The contract clauses most often found stipulated that seniority would govern, "if ability of applicants was approximately equal." Objective test scores then became a method for determining and illustrating similarities (but more often differences) between employees on the factors of skill or ability. The arbitrators were most often called upon to determine whether this determination was a proper one, according to the contract then in force.

CONCLUSIONS

A fundamental and seldom challenged premise underlying the field of psychological testing states that there are common, critical behavior patterns underlying diverse jobs in industry, and that these behavior patterns can be measured and predicted through use of psychological tests. The disputes indicated that employers were usually seeking broad behavior patterns generally assumed to underly most industrial occupations. Like God, Motherhood and Country, few would challenge the value attributed them by society. However, different employers used the same tests to ascertain presence, absence or quantity of different behavior patterns. Thus one employer used a mechanical aptitude test to identify more effective assemblers, while another used the same test to determine what he called "supervisory ability."

Management in almost all disputes reserved to itself the right to determine what behavior patterns comprised "ability" in particular jobs. Unions did not dispute the accuracy of company pattern-selection in many cases, and seldom challenged their right to make this decision on a unilateral basis.

Companies tended to be successful most often where they argued that the judgment of ability was a fundamental management right. Unions did best where they argued that an on-the-job trial provided the most effective method for determining employee ability. Companies received a favorable decision in about seven out of every ten arbitration decisions.

Contract clauses most often stated that senior employees would be promoted where skill and ability was at least equal to that of junior applicants for the job. Since psychological tests used commonly yielded a numeric score, companies often used the scores to show dif-

ferences in employee ability. The difference shown were often imaginary, since scores were for all practical purposes identical.

Companies studied did not appear to employ personnel technicians especially qualified for psychological testing, as a rule. The evidence appeared to indicate that most personnel men had little or no understanding of purposes and limitations of psychological tests which they used. Or, conversely, the arbitration hearing was a poor place to enunciate such a belief.

Employers appeared to be little concerned with whether or not a test identified the most effective promotional material - they were interested in achieving flexibility of management and increased latitude for decision making. Test results were offered as objective "proof" of an employee's ability when the company desired to depart from the principle of seniority in particular promotions. Thus companies demonstrated to the world that their decisions were sound and reasonable, since it was buttressed by scientific "fact."

This is argumentative part — is it backed in the body of paper

If psychological tests were used by employers to give themselves flexibility and increased latitude for management decision, the record indicated that unions were handicapped by prior compromises of the principle of seniority in promotion. Unions were unable or unwilling to make a general challenge of the company's use of psychological tests to determine ability, since they would be forced by success to come up with a better substitute, where none was readily available. Instead unions appeared to be challenging company use of tests on a case-by-case basis, or trying to secure a favorable decision on other grounds. Their efforts were often poorly organized and generally ineffective.

Unions seldom challenged validity and reliability of tests used. The comments of arbitrators and the evidence presented indicated that the

issues could have been profitably raised more often by unions.

Where validity or reliability evidence was submitted by employers, it was generally of little value. Test-retest reliability was challenged (successfully) by only one union. Follow-up and other validity efforts, when done, were structured so poorly or handled so inexpertly that they proved nothing. Much of the evidence presented at arbitration hearings had obviously been gathered after the hearing date had been set. Where outside evidence for validity were presented, they were often general testimonials concerning acceptance of tests, or citations of studies where difference tests, jobs or performance criteria were employed. Validities based on test performance of plant-wide employee groups relative to general indices of job success were used in arbitration hearings to justify promotion between jobs, both of which had been included without distinction in the original plant study! Or, a test that had been validated for the original purpose of improving the general intelligence of all employees in the plant was later used to identify persons considered for promotion to higher jobs, although they had already "passed" the test requirement at time of hire. Normative data were presented to "prove" validity of tests. Low correlations were presented in a manner implying the same predictability as high positive coefficients of correlation. An outside consulting psychologist testified (as a company advocate) in a manner implying test validity and reliability - but actually dodged both questions, since he obviously recognized the flimsy nature of company evidence. "Home-made" tests were arbitrarily assumed to be valid because they asked job-related questions. In summary, the state of the psychologist's arts in industry leaves much to be desired.

Test cutting scores were set with little or no objective bases. In several instances the arithmetic mean for broad occupational groupings

was calculated and a minimum established that would eliminate from a half to a third of the original group, even though some of the people scoring below the minimum had served successfully on the job already, and had been promoted to higher ranks of management! Generally, employers were hard-pressed to justify in any objective manner the test minima involved in disputes. They usually dodged the question by stating that test results were "only part" of the considerations upon which promotion decisions were based. Unions seldom challenged test minima employed by companies.

Social scientists appear to have done little to demonstrate to employers how to apply tests meaningfully in industry. While they often caution users of psychological tests to apply them "properly", they do not indicate what propriety is. The commercial psychological testing firms' objective is the sale and application of psychological tests, and their interests are not well served by excessive caution on the part of employers. A reputable psychologist, for example, might develop a tests that identifies an effective potential electronic relay assembler. A commercial firm may subsequently decide to publish the test, and, in order to sell the test in a market broad enough for profit, may state that the test is useful for selecting employees for a "variety of electrical manufacturing jobs." An employer may then purchase the test, use it for his electrical jobs with what he regards as good results, and then begin using the same test in connection with promotions to supervisory jobs. By this time, of course, the test has moved far beyond the original intent of its developer and the results indicated by his original validity study. Unions, not being aware of the original purpose of a particular test, are in a poor position to dispute the matter with an equally ignorant employer.

Conclusion or new subsection good points! How generally understood?

The arbitration record indicates that arbitrators (and social scientists) are willing to accept the employer's objectives of plant efficiency and maximization of profit as a primary objective of psychological tests. They appear to accept without question the employer's right to determine the behavior patterns "essential" to the world of work, even when it appears that the motives involved in particular cases have nothing to do with the preceding objectives. Social scientists have accepted employers' performance criteria for testing programs without bothering to see whether they are those most critical on the jobs disputed. It is significant to note that, while employers claimed to use tests to "improve efficiency", they seldom bothered to find out whether the tests actually did. The evidence indicates that psychological tests are used as often to enhance the position of management relative to worker and union as to identify the most effective employee. Much needs to be done to improve the use of psychological tests in industry.

THE END

FOOTNOTES

1. Kirkpatrick, Forrest. "Psychological Racketeers." Personnel Journal, Volume XX, 8 (Feb. 1942) pages 283-286.

2. Sorenson, Wayne and Carlson, Robert E. "Handwriting Analysis as a Personnel Tool." IPX Highlights (The University of Minnesota) Volume 3, Spring 1963, page 9.

3. Ghiselli and Brown. Personnel and Industrial Psychology (Second Edition), New York, McGraw-Hill, 1955. page 5.

4. Barkin, Solomon. "A Trade Unionist Appraises Management Personnel Philosophy." Harvard Business Review, XXVIII, 5 (Sept. 1950) page 62.

5. Baritz, Loren, The Servants of Power, Middletown, Connecticut, Wesleyan University Press, 1960, pages 157-159.

6. Baritz, Ibid, page 159

6a Yuba City Heat Transfer Corp. and International Association of Bridge, Structural and Ornamental Iron Workers. 2/23/62 38 LA 471

7. Ghiselli & Brown, op cit, page 5

8. Stauffer Chemical Co. and United Mine Workers, District 50. 9/29/54 23 LA 322

9. Acme Steel Company and United Steelworkers of America 12/10/47 9 LA 432

10. Kaiser Aluminum Company and Aluminum Workers International Union, 12/21/59 33 LA 951

11. Mead Containers, Inc. and Pulp, Sulphite and Paper Mill Workers Union, 10/20/60 35 LA 349

12. Kuhlman Electric Co. and United Automobile, Aerospace and Agricultural Implement Workers, 7/14/56 26 LA 885

13. Stackpole Carbon Co. and International Union of Electrical, Radio and Machine Workers, 11/22/61 38 LA 704

14. Bethlehem Steel Co. and United Steelworkers of America, 12/13/57 29 LA 710.

15. Alan Wood Steel Co. and United Steelworkers of America, 9.26/60 36 LA 240

16. Caradco, Inc. and United Carpenters and Joiners, Midwestern Millmens' District Council, 7/29/60 35 LA 169

17. Monsanto Research Corp., Mound Laboratories and Oil, Chemical and Atomic Workers, 8/30/62 39 LA 735

18. Fansteel Metallurgical Corp. and International Association of Machinists, 11/16/60 36 LA 570

19. International Nickel Company and United Steelworkers of America, 9/28/60 36 LA 343

20. Wisconsin Electric Power Company and International Union of Operating Engineers, 8/19/59 33 LA 713

21. Acme-Newport Steel Company and United Steelworkers of America, 1/15/59 31 LA 1002

22. Wisconsin Electric Power Company and International Union of Operating Engineers, 1/17/62 37 LA 1079

23. National Seal Co. and United Rubber, Cork, Linoleum and Plastic Workers, 8/3/57 29 LA 29

24. Wallingford Steel Co. and United Steelworkers of America, 11/27/57 29 LA 597

25. Fansteel Metallurgical Corp. op cit

26. John Deere Co., Des Moines Works and International Association of Machinists, 5/14/62 38 LA 549

27. St. Regis Paper Co. and Pulp, Sulphite and Paper Mill Workers, 1/19/63 40 LA 562

28. General Controls Co. and International Association of Machinists, 7/2/59 33 LA 213

30. Acme Steel Co. op cit

31. Hammerlund Manufacturing Co. and International Union of Electrical, Radio and Machine Workers, _____ 19 LA 653

32. General Controls Co. op cit

33. Fansteel Metallurgical Co. op cit

34. Wisconsin Electric Power Co. and International Brotherhood of Electrical Workers, 5/5/59 Arbitrator Kovenock. Unpublished decision loaned to author by Union.

35. Wisconsin Electric Power Co. op cit, 33 LA 713

36. Wisconsin-Michigan Power Co. and International Brotherhood of Electrical Workers, 2/26/60. Arbitrator August Eckhardt. Unpublished decision, transcript and exhibits furnished author by the arbitrator with the permission of the Union.

37. Wisconsin Electric Power Company and International Union of Operating Engineers, 6/21/61 36 LA 1401. Transcript of hearing furnished author by Arbitrator Pierce Davis, with permission of the Union.

38. Wisconsin Electric Power Co., ibid (Transcript) pages 180-200. Testimony of company's employment manager.

39. Wisconsin Electric Power Co., ibid (Transcript) pages 180-200. The following validity evidence was cited by the company:

a. United States Employment Service, Department of Labor and Pennsylvania State Employment Service. "Validity Information Exchange, No. 10-58." Personnel Psychology, Volume 10, 1957. page 519

Test used: GATB B-1001 Number tested: 54 men. Job: Powerhouse Engineer I. Performance criteria: Course grade in Trade Theory and final grades in trades practice. Tetrachoric correlation = .79

b. Personnel Research Branch, The Adjutant General's Office, Department of the Army. "Validity Information Exchange - No. 11-2." Personnel Psychology, Volume 11, 1958. pages 99-101.

Test used: Army Classification Battery. Number tested: 610 men enrolled in school, 133 men on job. Job: Machinist. Performance criteria: Final course grade (school sample), supervisor and associate ratings of job success. Correlations as follows:

	School	On the Job	
APTITUDE			
General Maintenance	.71	.28	
Combat B	.66	.29	
SINGLE ACB TEST			
Reading & vocabulary	.45	-.02	
Arithmetic reasoning	.60	.18	
Pattern Anal.	.60	.28	
Mechanical aptitude	.57	.24	(cited by company alone)
Army clerical speed	.39	.18	
Army radio code	.29	.00	
Shop mechanics	.64	.23	
Automotive info.	.49	.30	
Electrical info.	.49	.13	(not cited by company)
Radio info.	.37	.26	

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c. Personnel Research Bureau, The Adjutant General's Office, Department of the Army. "Validity Information Exchange - No. 11-16." Personnel Psychology, Volume 11, 1958. pages 251-253.

Test used: ACB. Number tested: 965 men enrolled in school, 136 men on job. Performance criteria: Final course grade (school sample), and supervisor and associate ratings of job success (on-job sample). Correlations as follows: Job: Powerman (portable power equipment)

	School	On-the-job	
APTITUDE			
Electronics	.74	.32	(not cited by company)
General Maintenance	.86	.40	
SINGLE ACB TEST			
Reading & Vocabulary	.71	.32	
Arithmetic reasoning	.75	.37	
Pattern Anal.	.71	.34	
Mechanical aptitude	.75	.30	(cited by company alone)
Army clerical speed	.61	.38	
Army radio code	.38	.28	
Shop mechanics	.78	.36	
Automotive info.	.76	.43	
Electrical info.	.66	.30	(not cited by company)
Radio info.	.34	.16	

d. Ghiselli, Edwin E. The Measurement of Vocational Aptitude. Volume 8, 2. University of California Press, 1955. page 192.

Test used: not given. Number tested: less than 100. Job: "Power Station Operators, Skilled Workers." Performance criterion: Proficiency. Correlation: .81 with intelligence. (Note: Ghiselli's methodology has been widely criticized. especially his averaging correlations from different studies utilizing different tests and performance criteria)

e. Walker, Francis C. (Sangamo Electric Co., Springfield, Ill.) "Normative Data Information Exchange - No. 10." Personnel Psychology, Volume 9, 1956. page 276.

Study reports average test scores for 505 salaried and unsalaried employees. Test used: Bennett Mechanical Comprehension test

f. Bruce, Martin M. (Dunlap & Associates) "Validity & Normative Data Information Exchange.- No. 37." Personnel Psychology, Vol. 9, 1956. pages 552-553.

Study reports average test scores on Bennett for 547 applicants for machine operator jobs in an electrical manufacturing company.

g. Bruce, Martin M. (Dunlap & Associates) "Normative Data Information Exchange, No. 18" Personnel Psychology, Volume 9, 1956. page 394

Study reports average test scores for group of 113 tobacco factory foremen, using Bennett.

h. McCorty, John J. "Normative Data Information Exchange, No. 10-31." Personnel Psychology, Volume 10, 1957. page 365

Study reports average test score for group of 116 applicants for position of sales trainee, using Bennett.

i. Glennon, J.R., Smith, Wallace J. and Albright, Lewis E. (Standard Oil of Indiana) "Normative Data Information Exchange, No. 11-35." Personnel Psychology, Volume 11, 1958. page 601

Study reports average test score for group of 390 petroleum products consumer salesmen, using Bennett.

40. Wisconsin Electric Power Company., ibid (Transcript), pages 180-200 Testimony of company's employment manager.

Ghiselli, Edwin E. The Measurement of Occupational Attitude, op cit, pages 101-106, 117-131.

Arborne, Murray. Fourth Mental Measurements Yearbook

Super, Donald E. Dynamics of Vocational Adjustment, page 260

41. Wisconsin Electric Power Co., ibid (Transcript) page 228.

42. Wisconsin Electric Power Co., ibid (Transcript) page 228.

43. Wisconsin Electric Power Co., ibid (Transcript) page 404.

43a Wisconsin Electric Power Co., ibid (Transcript) page 276-290.

44. Caradco, Inc. op cit.

45. Caradco, Inc. in letter to Robert Warosh, Executive Secretary of Midwestern Millmens' District Council dated June 4, 1962.

46. Acme-Newport Steel Company, op cit.

47. Allied Chemical & Dye Corp., Semet-Solvay Div. and Oil, Chemical and Atomic Workers, 10/30/57. 29 LA 394.

48. International Nickel Co. op cit.

49. John Deere - Des Moines Works, op cit.

50. Latrobe Steel Co. and United Steelworkers of America, 2/15/60 34 LA 37

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51. Latrobe Steel Co., ibid page 38.

52. National Seal Co., op cit.

53. Nicholson File Co. and United Steelworkers of America, 5/14/59. 34 LA 46.

54. Wisconsin Electric Power Co. op cit, 33 LA 713.

55. Wisconsin-Michigan Power Co. and International Brotherhood of Electrical Workers, 2/26/60. Unpublished arbitration decision, and exhibits submitted at the hearing - loaned to author by arbitrator August Eckhardt with the permission of the Union.

56. Wisconsin Electric Power Co., op cit, 33 LA 713.

57. Dahlstrom and Welsh, An MMPI Handbook. The University of Minnesota Press, Minneapolis, 1960. page 224.

58. Dahlstrom and Welsh, ibid. page 230.

59. Bergstrom Paper Co. and Pulp, Sulphite and Paper Mill Workers Union, 4/12/61. Unpublished arbitration decision and related material loaned to author by the Union.

60. Wisconsin Electric Power Co. op cit, 36 LA 1401 (Transcript).

61. Verniaud, Willie Maud "Occupational Differences in the MMPI." Journal of Applied Psychology, Volume 30, 1946. pages 604-613.

62. Wisconsin Electric Power Co., op cit, 36 LA 1401 (Transcript, p. 166)

62a Proposal of Wisconsin Electric Power Co. to the International Brotherhood of Electrical Workers in 1959. "Proposed Plan for Appraising Aptitudes, Abilities & Qualifications of Employees Under the Jurisdiction of I.B.E.W. Local 494 for the Purpose of Promotion." Unpublished document loaned to the author by the Union.

63. Caradco, Inc. op cit.

Standard Oil Company of Indiana and Central States Petroleum Union, 10/2/48 11 LA 810.

Southern California Edison Co. and International Brotherhood of Electrical Workers, 7/26/50 15 LA 162.

Nicholson File Co. op cit.

M.A. Hanna Co. and United Steelworkers of America, 10/26/55 25 LA 480

Kuhlman Electric Co. and United Auto, Aerospace and Agricultural Implement Workers, 7/14/56 26 LA 885.

Alan Wood Steel Co, op cit.

John Deere, Inc., Des Moines Works, op cit.

64. Castle Dome Copper Co. and Metal Miners & Processers Union, 11/26/53 19 LA 828.

65. M.A. Hanna Co., op cit.

Wisconsin Electric Power Co., op cit, 33 LA 713.

66. Perry-Fay Co. and International Association of Machinists, 5/14/48 10 LA 429.

Kuhlman Electric Co., op cit.

Wisconsin Electric Power Co., op cit, 33 LA 713

67. Perry-Fay Co., op cit.

Wisconsin Electric Power Co., op cit, 33 LA 713

68. International Minerals & Chemicals and International Chemical Workers Union, 11/22/54 22 LA 446.

Stauffer Chemical Co., op cit.

National Seal Co., op cit.

Wallingford Steel Co., op cit.

Bethlehem Steel Co., op cit.

Acme-Newport Steel Co., op cit.

General Controls Co., op cit.

Kaiser Aluminum Co., op cit.

Latrobe Steel Co., op cit.

Wisconsin Electric Power Co., op cit, 37 LA 1079.

Fansteel Metallurgical Corp., op cit.

Alan Wood Steel Co., op cit.

Stackpole Carbon Co., op cit.

Union Carbide Co. and Oil, Chemical and Atomic Workers, 9/17/62 39 LA 538.

Central Soya Co. and Brewery, Flour, Cereal, Soft Drink and Distillery Workers, 11/2/63 41 LA 1027.

69. American Can Co. and United Steelworkers of America, 5/14/48, 10 LA 613.

International Minerals & Chemicals Corp., op cit.

Wisconsin Electric Power Co., op cit, 37 LA 1079.

If applicant comes in
given form, fills out, sees personnel mgr -

if there is any
math problem
General knowledge } a Sears test developed
temperment test } over past 12 years
like to work with hands
Similar aptitude

Possible to get 126
but its timed at 20 mins
35 - will be considered
50 - probable average

not everyone fills out -
yes, if some potential - if specific opening -

Nothing Subjective in test

(No Notation as to race on form -
But Pers Mgr. said spelled out Negro Seemed attitude
prospect's record (active later & asked Pomeroy he
would object? -

Told Ind Com March 16, 1964 - No applicants
But CORE stimulated 11 -
Treated rudely

69. (cont'd) Stackpole Carbon Co., op cit.

Central Soya Co., op cit.

70. Wallingford Steel Co., op cit.

Acme-Newport Steel Co., op cit.

Latrobe Steel Co., op cit.

Wisconsin Electric Power Co., op cit, 37 LA 1079.

71. Alan Wood Steel Co., op cit.

72. See footnote #39 for descriptions and citations of validity information submitted to the arbitrator by Company.

73. Wisconsin Electric Power Co., op cit, 33 LA 713.

74. Acme-Newport Steel Co., op cit.

75. Wisconsin Electric Power Co., op cit, 33 LA 713.

76. Caradco, Inc., op cit.

Acme-Newport Steel Co., op cit.

77. Dayton Steel Foundry Co. and United Steelworkers of America, 2/8/62, 38 LA 63.

"Check-lists and Score Sheet for Exercises fo Driving Skill (for vehicles about six feet in width." By: Amost E. Neyhart, Administrative Head, Institute of Public Safety, the Pennsylvania State University.

"Driving Skill Exercises for use with Passenger Cars and Commercial Vehicles." By: Amos E. Neyhart, Director, Institute of Public Safety, the Pennsylvania State University.

Sears

1st of Jan. visit from 2 Cons – discussed failure before Xmas –
Seemed satisfied with explanations
Best demand 5 on floor by 3/15
Had hired Negro in Service Station prior to demonstration
Have had – drapery dept –
2 others a little vague – could be

at no time do they refuse to give an application
15–20 / per day

2 – Complaints
one investigated by EOC

Activity may have produced

Standard Test –

	Score
One recently hired	– 62
not hired	– 15
Service Station	– 46

Test not final determination
minimum Standard of knowledge
& ability for Retail Store –

Dearth of applications, no

4 Negroes now hired

11 employees hired since Jan 1st – full time
6 ext res
2 Selling (Spots – yard)
1 Service (full time)
└ 4 are Negroes – not permanent nor full time

15–20 applicants / day – 3–4 T go – use blank part time

20% of Sales force has some College – 2 of 4 Negroes –

Oct 1965

The Case Against Compulsory Arbitration

by Kenneth Fiester

"Almost no serious student of labor relations in the United States, whether he be connected with management, labor or the world of research and scholarship, advocates legislation providing for compulsory arbitration of labor disputes."

These words were written in 1959 by Dr. Robert R. France, professor of economics at the University of Rochester. They were true then and they are equally true now. Yet the notion that compulsory arbitration should replace the right to strike keeps bobbing up from time to time and is presently in evidence again.

There are probably three explanations, two current and one chronic, for the latest revival.

One is the arbitration agreement imposed on the railroad workers by act of Congress—the first such peacetime compulsion in the nation's history—which will remain in force until next March.

The second is that the intercollegiate academic group which sponsors a nationwide high school debate program has suggested the following proposition for the 1965-66 school year:

> "*Resolved:* That the federal government should adopt a program of compulsory arbitration in labor-management disputes in basic industries."

In light of Dr. France's categorical dismissal of it, the topic may seem to be an unrealistic one for serious young students—a sterile forensic exercise rather than a serious exploration of a genuine issue. But this is not necessarily so.

Compulsory arbitration survives as an issue because it has immense surface plausibility, to young people especially. Through their young eyes, a labor dispute is waged between two disembodied forces over matters which should be subject to disinterested analysis and judgment. If only both parties would submit to such a process (they feel), "wasteful" strikes would be obviated and universal justice assured.

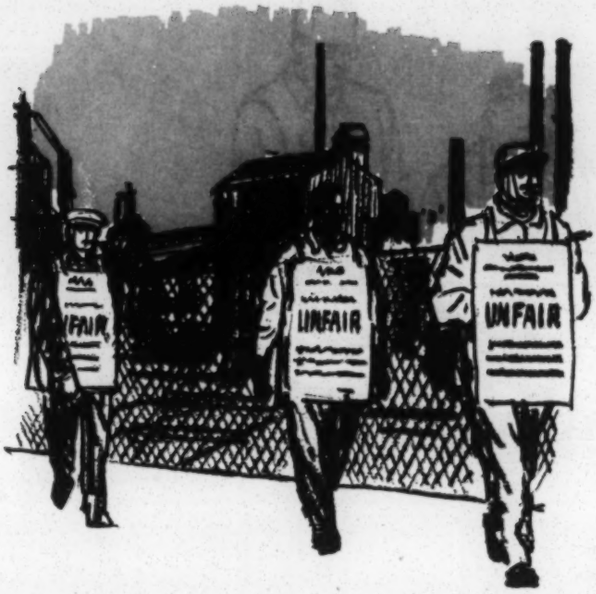
This sounds like a great idea. It has only one weakness—it doesn't work.

Before exploring why it doesn't work, let's clear away the underbrush that trips up many novices who stride confidently into this particular forest.

First, there is still a vast amount of misunderstanding among non-union people as to the number and impact of strikes. Of the 150,000 labor-management contracts in the United States, 98 percent run their course without a work stoppage of any kind. Time lost by strikes during the 1960s has averaged below one-half of 1 percent—less than .002—of the total time worked during a year. And even this is an overstatement. In one long strike of Steelworkers, for instance, it was estimated that at least half the strike-time would have been lost anyway in the form of layoffs, because the cyclical nature of steel production provides few year-round jobs.

Second, both the loss in output and the "hardship" imposed upon the public through strikes are similarly exaggerated. In the basic manufacturing industry—and that's what the debate topic covers—the loss in production, like the loss of time, is characteristically recouped by abnormal output before and after a strike. Since very few industries operate close to maximum capacity throughout the year, a work stoppage has

KENNETH FIESTER is Secretary-Treasurer of the International Labor Press Association.



more effect on schedule than on ultimate volume.

As for public "hardship," this, too, is largely illusory. It may be inconvenient to wait an extra month for a new car, or to go without a daily newspaper for awhile. It may be irritating for a taxi rider to take the subway or a subway rider to take the bus. And it may be downright infuriating to be told by a sales clerk that a wanted item is temporarily unavailable—"the strike, you know." But inconvenience, irritation and fury are not hardship. In labor-management relations, as in so many other phases of American life, they are the occasional price of a free society.

To be sure, there are times and places where a strike is in fact an offense against the public interest and must be avoided by compulsion, if necessary. A munitions plant in wartime, firemen or policemen at any time, are obvious examples. It should be noted that wartime renunciation of strikes—by the action of the labor movement itself—goes far beyond munitions. At the start of World War II, virtually every AFL and CIO union voluntarily adopted a no-strike policy on the grounds that nearly every occupation is involved in modern war. Violations of the pledge were almost too few to be measured. As a matter of fact, more time was "lost" for "E" award ceremonies than for walkouts.

Then there are so-called "national emergency" strikes which—if so proclaimed by the President—can be enjoined by the courts for 80 days. These do not involve arbitration but, as the railroad case demonstrated, Congress always has the power to decree a forced settlement of a specific dispute.

The proposition as stated in the debate topic is not directly concerned with these special cases. They are mentioned here for two reasons. One is to reiterate the labor movement's longstanding acknowledgement that the right to strike is not absolute, under all circumstances. The other is to indicate the outer limits of the area in which compulsory arbitration may become the ultimate instrument of settlement—though even in this area, as will be seen, it has proved less than satisfactory.

Those who lack first-hand experience with collective bargaining find it hard to understand why compulsory arbitration of contract terms is generally unacceptable to all concerned, while another kind of arbitration—the adjudication of grievances that arise during the term of the contract itself—is a matter of common practice.

Actually, of course, the two are very different. Arbitration as a final resort in disputes under an existing contract deals with specific facts within a limited area. The meaning of a contract clause and how it should properly be applied in a certain instance; the hourly rate that should be established for a job that has been greatly changed by new machinery (always within the context of the general wage structure established by the contract); the judgment of management in matters of promotion, layoff or discipline—these are subject to fair assessment by an informed but disinterested outsider. For the most part, they involve demonstrable facts and always they can be weighed within the framework of mutual agreement expressed in the contract.

The contract itself is another matter. The contract is the framework of agreement. It must be constructed by the parties themselves in order to be effective, either in the workplace or in the economy as a whole.

This point is sharpened by a consideration of the case *against* compulsory arbitration. For example:

- It doesn't stop strikes. One western-style nation, Australia, has had a structure of compulsory arbitration for more than half a century. Another, France, instituted such a system in the few years prior to World War II. But in democratic societies, workers cannot be compelled to accept terms of employment that are repugnant to them, except by destroying freedom itself. So there are strikes in Australia, as there were strikes in France, in defiance of the wrath and might of the arbitration tribunals.

Here again, the uninitiated may wonder how this could be possible. It is possible because free workers who feel truly aggrieved have no hesitation in rejecting an economic edict of government in a time of peace. And it is possible because they are free citizens as well as free workers. The forcible application of an unpopular arbitration verdict can be perilous for the government in power. Thus the theory that compulsory arbitration would produce industrial "order" is applicable only if freedom is sacrificed to the same cause.

- Where basic terms of employment are involved, there is really no such person as a wholly-informed, wholly-qualified, wholly-disinterested outsider to decide the issues. Thirty years ago, there were some who felt that a wage dispute, for instance, could be resolved by a simple arithmetical balance between the "needs" of the workers and what the company, or the industry, could "afford to pay." Since then there has been ample proof that the nation is infinitely better off if workers are paid more than enough to meet some

outside concept of their "needs" and that, if this is done, what management can "afford" reaches new and vastly broader dimensions.

But there is not just a labor angle involved here. If compulsory arbitration acted only as a brake on wages, more employers undoubtedly would support it. However, employers also rebel against leaving basic conditions of employment to outside determination. They feel, quite properly, that they have a better chance to reason out an acceptable settlement with union negotiators who are intimately familiar with all the subtleties of the existing relationship. And they prefer a *bargain,* to which both sides agree and which both sides are pledged to observe, rather than a judicial decision for which neither party feels responsible.

Beyond this, if one economic factor—conditions of employment—is to be determined by outside decision, the same process could reasonably be applied, on the identical pretext of the public interest, to prices and profits. If the earnings of workers are to be fixed at some level below what the workers themselves would freely accept, why shouldn't the earnings of stockholders (or even managers) be subject to similar restraint? And why isn't there an even greater public interest in the price at which goods are sold?

Those who own and manage American enterprises are well aware that compulsion is contagious. Some of them may cast a wistful glance toward the beguiling siren of compulsory arbitration but then, like sensible husbandmen, they consider what they might lose by succumbing to temptation.

• Compulsory arbitration stifles innovation. The very nature of arbitration is the arbitrary reconciliation of conflicting positions, based largely on precedent. A previously untried idea has little or no chance of acceptance; yet the whole course of progress for workers in America has been largely led by previously unheard-of ideas, clothed with reality through free

The Meaning of Free Collective Bargaining

The following statement is excerpted from a report to the late President John F. Kennedy from his Advisory Committee on Labor-Management Policy, a group which included leading industrialists, outstanding trade unionists and representatives of the general public familiar with problems of industrial relations.

I. Progress of Collective Bargaining

By free collective bargaining, we mean the opportunity for labor and management to work out their own problems and to arrive at voluntary agreement concerning them. All members of this Committee are convinced that free collective bargaining should constitute the primary procedure by which the essential terms and conditions of employment shall be determined. Indeed, this is today, as it has been for at least a quarter century, our declared national labor policy.

When obstinate industrial disputes have occurred, involving strikes in important industries, there has been an inclination to question the efficacy of collective bargaining. Its record emerges, nevertheless, as one of outstanding progress within a single generation. As a nation, we have acknowledged the right and desirability of workers to organize, to speak through representatives of their own choosing and to negotiate with management over rates of pay, working conditions, job protection and a variety of other forms of employe benefits.

Since 1947, the amount of working time lost because of strikes has averaged less than one-third of 1 percent. The record for the past eight-year period has been better than this. The total number of work stoppages continues to decline and the average length of strikes on the whole is decreasing.

Strikes over grievances have been substantially eradicated by providing through collective bargaining for the use of voluntary, binding arbitration.

II. The Essential Freedom-of-Choice Elements in Collective Bargaining Must Be Preserved

The continuing recognition of the right of employers and unions to reject a proffered agreement, even at the expense of interrupting operations, has constituted an essential feature of free collective bargaining.

Recognizing this, we count it important to minimize interruptions of operations without destroying or impairing the essential economic motive force of free collective bargaining.

We note the importance of recognizing that the representatives of the parties have a duty to be responsive to the desires of their respective constituencies.

We are opposed to any governmental imposition in peacetime of substantive terms and conditions on the parties.

We reject the idea that there should be any legal requirement that disputes be resolved through compulsory arbitration. If the parties choose to submit their differences to arbitration, in which the award is final and binding, that is, of course, proper and compatible with the concept of free collective bargaining.

—*"Collective Bargaining—A Report by the President's Advisory Committee on Labor-Management Policy," May 1, 1962.*

collective bargaining (and sometimes strikes).

This also works both ways. Especially in the complex technology of today, an employer may need far-reaching changes in contract provisions in order to achieve the flexibility the enterprise requires. An arbitrator, treading cautiously in the ruts of precedent, is unlikely to break into a new path.

An outstanding example of a freely-bargained agreement which could hardly have been reached in any other way is the Kaiser Steel Company's contract with the Steelworkers, which created an unprecedented mechanism for protecting jobs against automation and sharing its benefits.

- Awareness by the parties that compulsory arbitration will be imposed if they fail to agree serves to inhibit genuine bargaining in the preliminary stages. Each side is laying a basis for the arbitration to come, rather than seeking prior agreement. This has been true in some so-called "emergency" or "national interest" disputes; there is no reason to expect a difference if compulsion were extended. Professor Jacob J. Kaufman of the University of Pennsylvania, a recognized expert on railway labor problems, asserts that the repeated declarations by public figures, from the President of the United States down, that a national railroad strike was "intolerable," virtually guaranteed against a negotiated settlement of the 1963 dispute.

Secretary of Labor W. Willard Wirtz has stated the general case with even greater force:

"A statutory requirement that labor disputes be submitted to arbitration has a narcotic effect on private bargainers . . . they (will) turn to it as an easy—and habit-forming—release from the obligation of hard responsible bargaining . . . It would become, if required by statute, a substitute for bargaining."

In short, compulsory arbitration, as a matter of law or fixed government policy, means the destruction of free collective bargaining. The two simply cannot co-exist.

This would be a social and economic tragedy for America, even if compulsory arbitration did indeed ensure industrial peace.

It would be a tragedy because progress in the United States has not been ordained from the seats of wealth and power. More often than not, it has sprung from the aspirations of the less fortunate, whose demands as free citizens have moved the owners of industry to do what turned out to be best for themselves.

Long before trade unions had economists and lawyers and educators and public relations people, there were intelligent, far-sighted leaders in the ranks of labor who realized that private enterprise would continue to work only if it were protected against self-destruction through its own selfishness.

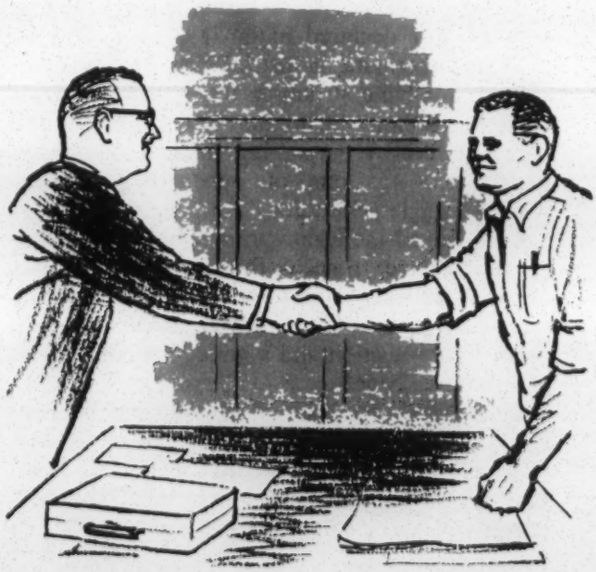
Free collective bargaining is an instrument—man's indispensable instrument—towards that end.

No one claims that unions are always right or that they should get everything they seek. But unions, through free collective bargaining, backed by the prudently-exercised right to strike, have indeed raised the sights of employers and have been instrumental in building the richest and most rewarding society in the history of the world.

They were able to do this because they were able to invent, to innovate, to break new ground—a freedom that compelled compromise would obliterate.

But most fundamental of all, the case against compulsory arbitration is the case against compulsion itself. It is one thing to compel obedience to laws (or to contracts) arrived at by a majority of the people covered by them, or their elected representatives, and which are subject to periodic change through democratic processes. It is quite another to force workers and employers to yield their most basic economic liberties to a tribunal answerable to no one.

This is why the overwhelming preponderance of employers, public officials, scholars and others who are sensitive to the nature of a free society reject a plan that would sacrifice liberty in an illusory pursuit of "order."



Reprinted from October 1965
AFL-CIO AMERICAN FEDERATIONIST

WSJ 4/1/66
Arbitration

Reading for Business

* * *

Aspects of Arbitration

Arbitration of labor grievances has a relatively short history, but it is now the all-but-universal method of resolving disputes that arise out of the operation of union contracts, and thus of keeping day-to-day labor peace in the factory. It also is evolving rapidly into a much more complex procedure than it was initially. R. W. Fleming, president of the National Academy of Arbitrators, examines some of the new problems that are arising, and some possible ways of meeting them, in a new book **The Labor Arbitration Process** (University of Illinois Press. 223 pages. $5.) —a title that is much too sweeping, since he does not in the least attempt to give a comprehensive description of how grievance arbitration works.

Many of Mr. Fleming's pages will be of interest primarily to the specialist. It is difficult to imagine anyone else being fascinated by his precise description of how a survey on the average costs of an arbitration case was set up. But the book can be understood by a layman, and anyone with an interest in the field—a company official, say, whose work may be affected by arbitration rulings though he is not directly responsible for industrial relations—will learn much that may be valuable.

* * *

Probably few non-specialists, for instance, appreciate the increasing involvement of arbitration with the law. Formerly it was a private arrangement between unions and managements, but since 1957 a series of court decisions have given it a new legal status—establishing that courts can enforce an arbitrator's decision, confirming the arbitrator's authority to rule on cases that also could be taken to the National Labor Relations Board, and even establishing that, despite the Norris-LaGuardia Act, a court can issue an injunction against a strike an arbitrator orders a union to end.

A second series of court decisions, which have resulted so far in considerable confusion, has begun to lay down rules under which an individual worker can get an arbitration hearing on a grievance his union does not want to take up on his behalf. Mr. Fleming explores these new dimensions of arbitration succinctly and thoroughly.

Mr. Fleming is worried by criticisms that the cost of arbitration is getting out of hand, and that the process is becoming too formal. He offers several suggestions for improvement. Among them: That the parties train their own specialists in presenting cases, rather than hiring outside lawyers; that they content themselves with an immediate oral decision from the arbitrator, rather than demanding a later written decision; and that they be willing to engage younger arbitrators who would charge lower fees, rather than continuing to demand one of the small number of long-time professionals.

Most of all he pleads for better preparation of arbitration cases by the parties, and offers some startling examples of poor preparation. In one case, in which a worker protested that he was improperly classified, the company's lawyer conferred with the man's supervisor for the first time only the night before the hearing—and found to his astonishment that the supervisor himself thought the worker probably belonged in the classification the union was demanding for him.

* * *

It is when he moves beyond narrowly

company's lawyer conferred with the man's supervisor for the first time only the night before the hearing—and found to his astonishment that the supervisor himself thought the worker probably belonged in the classification the union was demanding for him.

* * *

It is when he moves beyond narrowly technical matters that Mr. Fleming gets most interesting—but, unfortunately, he contents himself with merely mentioning some topics that cry for a fuller discussion. He mentions, for instance, that the merits of a grievance may have little to do with whether it is taken to arbitration. Many a union will suddenly take a load of grievances to arbitration just before it goes into contract negotiations; obviously it is using the arbitration machinery to put pressure on the company bargainers.

The problems of a union that doesn't want to keep going to arbitration on grievances it knows it will lose, yet doesn't want to keep saying "no" to faithful members, are fairly obvious. But Mr. Fleming observes that arbitration cases can cause political strains within a company, too; they may trigger disputes between production managers and the industrial-relations men, he says (without giving any examples). Many union and management authorities, he says, accept a rule of thumb that the company will win about 70% of the grievances that go to an arbitrator, and companies sometimes worry that they may be undermining union leaders they get along with fairly well if they win a greater share.

These political problems of arbitration are far more intriguing to the non-specialist than the questions of costs and legal rules that Mr. Fleming dwells on at length. And Mr. Fleming, with the extensive first-hand knowledge and thorough study of the field that he displays in this book, could discuss them with authority. Now that he has written a book focusing on some of the more technical aspects of arbitration, one hopes he will write another focusing as deeply on some of these topics of more general interest.

—GEORGE J. CHURCH

Arbitrators rule on cases ranging from fine points of subcontracting rights to how many beers are a "couple."

LABOR

Taking the grief out of grievances

Voluntary arbitration wins wide favor with management and unions as a tool for keeping shops open while cases are decided. Third party also takes the heat off disputants

Say "arbitration" to most people and they will think of compulsory arbitration, where the government steps into a labor-management contract dispute and names an arbitrator who dictates a settlement. It is a technique generally abhorred by labor and management, and rarely employed in the U. S.

But say "arbitration" to an industrial relations director, or to a union official, and he will think of something quite different: voluntary—or grievance—arbitration. It's one of the handiest tools in his professional kit—and one of the most effective systems yet developed in the U. S. for stabilizing labor relations.

This kind of arbitration deals only with the interpretation of an existing contract. Union and management negotiate the provisions; the arbitrator clarifies their meaning when differences of opinion cannot be settled on the lower reaches of the grievance procedure. Meanwhile, work continues on the production line or at the office. That's what a grievance procedure culminating in arbitration is all about—in contrast to the British system, which gives the worker no institutional alternative but a wildcat strike if management shrugs off his grievance.

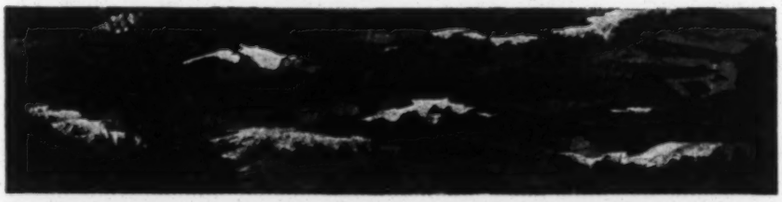
In the U.S., voluntary arbitration is a remarkably popular system. According to the American Arbitration Assn. more than 93% of all U. S. collective bargaining agreements contain arbitration clauses, an estimated 30,000 labor arbitrations took place last year, and the total grows annually.

No fooling. The unions are in dead earnest about arbitration. The AFL-CIO recently held the first of what promises to be a series of Arbitration Institutes—a weeklong crash course for union officials who handle arbitrations. Instructors were arbitrators, lawyers, economists. Some were from the University of Illinois (which cosponsored and housed the institute), others from AFL-CIO.

At the institute, two facts stood out clearly:

- Arbitrations are increasing not only in number, but in importance and complexity, too. Most cases still deal with whether Joe was docked unfairly for lateness, and similar matters. But many others now involve such issues as the company's subcontracting rights, or how to adjust seniority ratings to conform to antidiscrimination guidelines.
- Many unionists have developed an expertise sharp enough to sting the most complacent manager. Among 30 at the institute, some 20 asked questions and offered comments that clearly struck their teachers as highly sophisticated. A handful appeared ca-

from flying above to submerging below...



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pable of teaching the course themselves.

Teachers and experts

These men had learned from experience. They knew, for instance, that discipline cases (the largest category) are usually the simplest. Precedents are fairly clear, the member either wins something at the company's expense or loses it at his own (i.e., back pay), and the case frequently hinges on nothing more complicated than how many beers were "a couple of beers."

Bumping. At mention of seniority (the second largest category), the unionists moved uneasily in their seats. Seniority involves promotions, layoffs, bumping (moving a higher-level worker into a lower-level job to make room for someone with more seniority). Here the member wins only at another member's expense, and precedents vary wildly. Moreover, nowadays a seniority case can plunge the union into the dangerous depths of the generation gap or the racial problem.

For example: A contract says that a job must be filled by the senior man in cases of equal ability. That's the standard formula. But what is the union to do if a low-seniority high school graduate files a grievance, demanding the job on grounds that the senior man never got beyond sixth grade—and therefore is not equal?

"That's a typical problem—even where you wouldn't expect it," commented an AFL-CIO headquarters man. "I've seen education cited in disputes about janitors' jobs. 'He can't even read the instructions on the back of the boiler,' says the young fellow. 'I've been firing a boiler for 15 years and nothing ever went wrong,' says the senior guy."

The equal ability rule raises another question: Does it mean present ability or potential? There have been, and are, plenty of cases revolving around that issue. Should it be equal ability at the moment the job opens up, or after training? How much training? And—bedrock union doctrine—shouldn't the senior man get a chance to show he can do the job? Arbitrators have ruled every which way.

Or suppose a high-seniority man whose department has closed wants to bump a low-seniority man in another department despite a contract clause that establishes departmental, not plantwide, seniority. Is it really an open-and-shut case if the grievant is black and the clause dates from the days when the departments were segregated?

The unionists also dealt candidly with the "political" aspects of arbi-

PAGINATION INCORRECT

tration, including (quite sympathetically) management aspects.

They knew all about the unrealistic top management order that would cause chaos and rebellion among the work force—and the plant manager who accepts it without argument, applies it as quickly and clumsily as possible, and sits back to await the inevitable losing arbitration. The record will show that he didn't reject the top management plan; the arbitrator did.

On the union side, the typical "political" case involves a popular member with a weak grievance. Weak or not, it will go to arbitration. Other political cases involve grievances filed by members of the local's opposition group. These will be lost in the shuffle or carried ostentatiously to arbitration, depending on the principles and political necessities of the local administration.

Podunk local. Relations between union locals and their international are part of the "political" picture, too.

"What do you do," asked one international union staffer, "if most of your industry contracts have the same unclear clause, you're watching for a grievance that will give you the best chance of a favorable arbitrator's interpretation—and out in Podunk, some idiot local starts arbitrating a case it can't possibly win?"

The answer, supplied by a chorus of students, was that the international uses its finest eloquence—and, if available, political influence—to talk the local out of its decision. Constitutionally, no international can order a local to drop an arbitration. Even if the local were willing to obey blindly, it would run legal risks. A recent Supreme Court decision permits a grievant to sue his union if it fails to press his case on grounds unrelated to its merits.

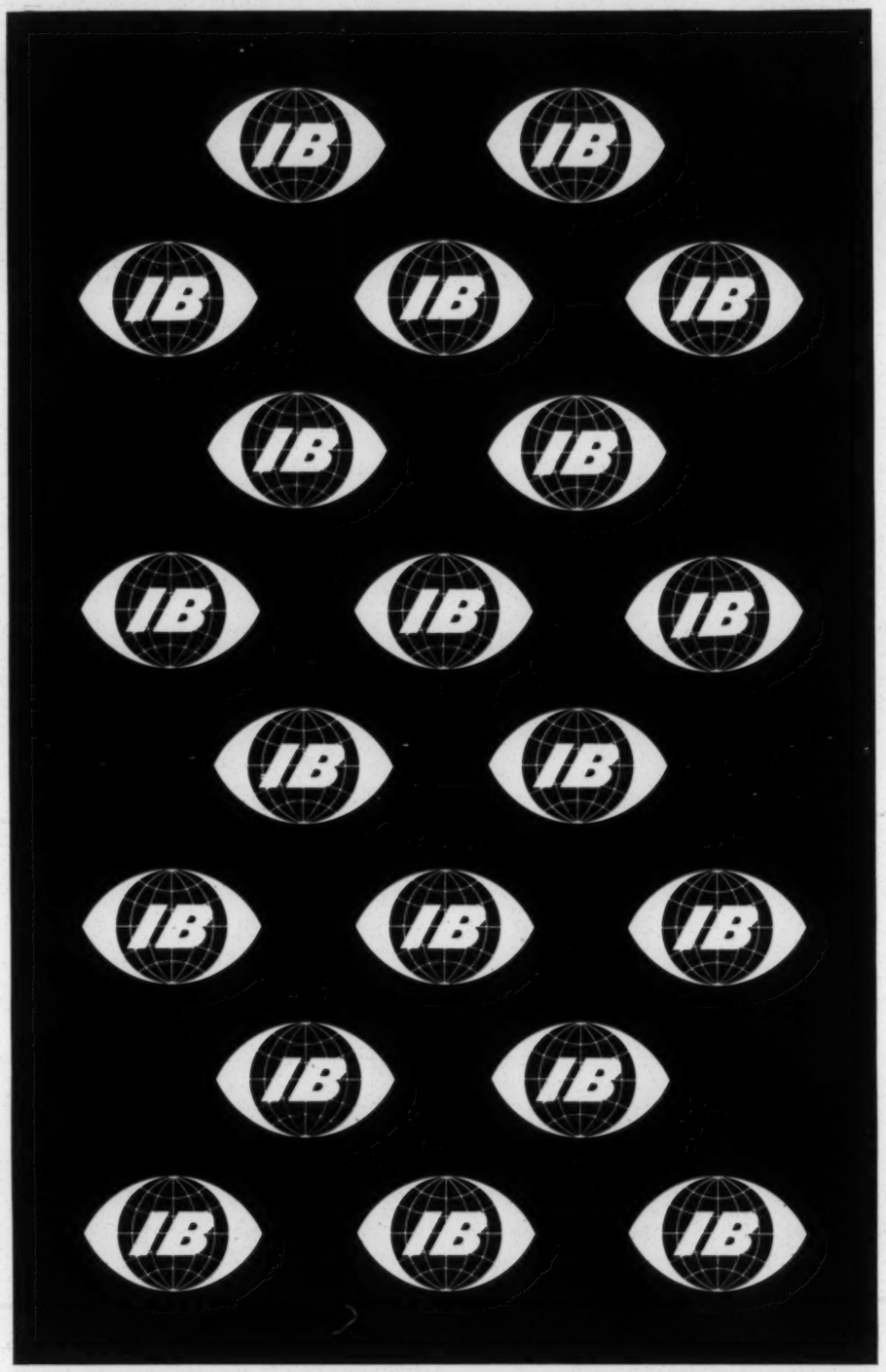
"If the international can't persuade the local that it has a lousy case, well worth dropping, the best you can do is to send help from headquarters to save as much of the case as possible," said one union veteran. "And pray."

Not guilty. Discussing whether a lawyer was needed in arbitration, students and teachers expressed roughly the same opinion: Sometimes, but try to avoid it.

Their reasons went beyond the obvious ones of additional expense and—in some areas—the intrusion of a stranger who knows little about the case's previous history and perhaps less about labor practices.

Basically, they feared the introduction of legalistic attitudes into the deliberately easy-going world of arbitration.

A legal case involves evidence presented under strict rules to prevent



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the misleading of an untrained jury, a fight between antagonists who may never see each other again. Above all, there's the question of innocence or guilt.

Arbitration, on the other hand, is a single incident in a continuing relationship—a private service paid for by its users. Nobody's guilty, nobody's innocent; somebody simply misinterpreted the contract—or didn't. Even the arbitrator's decision goes by the neutral name of "award." Rules governing testimony stress common sense rather than detailed instructions; the arbitrator is an expert unlikely to be swayed by razzle-dazzle or irrelevance.

Ground rules

Labor and management recognize the special nature of the proceeding, the AFL-CIO professors noted. Both fight to win, but avoid inflicting wounds that will fester.

Except in the direst emergency, few companies will put one union member on the stand to testify against another; few unions will put a recently created foreman (or sometimes any "good-guy foreman") in a position where he must testify against either the company that promoted him or the men who work under him.

Both sides know that, when the case is over, they'll still be working together.

Genesis. This stabilizing effect on labor relations gave arbitration its first major boost during World War II. The War Labor Board, armed with the power to approve wage increases, endorsed only those contracts that included arbitration, as a means of helping to insure uninterrupted production.

The typical formula had—and still has—the shop steward taking up a grievance with the foreman, the local business agent carrying it further with the supervisor, and an international union representative moving it on with the personnel director (or some similar progression). If all else fails, an arbitrator is called on to decide the case.

Afterward, almost everyone who had adopted arbitration continued it. Others who had observed their experience negotiated their own arbitration clauses. Today, the principle of arbitration tends to be disputed only where the existence of unionism is still disputed, as in some areas of the South.

Elsewhere, criticism focuses on particular aspects of arbitration rather than the institution itself.

Murmurs. Unions usually complain about the expense.

At a typical arbitrator's charge of $150 a day and a probable minimum of two days' charge—one for hearings, one for study and writing the award—the parties will pay a rock-bottom bill of $300, and many bills are very much higher. They may also pay legal fees if lawyers have conducted the case; transcript charges if a transcript was regarded as necessary; and the wages lost by witnesses who appeared to testify.

The AAA—which, together with the Federal Mediation & Conciliation Service and state agencies, provides most of the 500 lawyers, educators and other third parties who serve regularly as arbitrators—has offered one solution. It would schedule several relatively simple cases in one day so that a single arbitrator can hear them all at a reduced rate for each case.

But many unions and companies reject this alternative because it requires complex programming and allows them to pick only the panel from which the arbitrator would be drawn, not the specific arbitrator.

Management, for its part, often protests alleged encroachment of its rights if an arbitration clause is loosely phrased or if an arbitrator interprets it loosely. General Electric has made something of a crusade of this issue, carefully refining its arbitration clauses to limit the definition of arbitrable issues and challenging legally any award that it feels exceeds this limit.

Most arbitrators believe GE is fighting a losing battle. The drift of U. S. jurisprudence, they say, is toward leaving labor relations as much as possible to institutions developed specifically to deal with them. Unless the judge is convinced that the arbitrator grossly overstepped his bounds, he will generally uphold his right to rule—and on the ground that annoys GE most: that the arbitrator himself is probably in the best position to know if the issue is arbitrable.

The limit. Union and management agree, however, on a third object of attack: the occasional overzealous arbitrator who rules not on the clause in the contract, but on the clause he wishes were there instead—for the sake of smoother plant relations, for the sake of the economy at large, for the sake of abstract justice, or whatever. Among most clients and practitioners of arbitration, he ranks as a kind of professional leper.

An arbitrator at the AFL-CIO institute summed up the general feeling: "I would consider it the height of arrogance to sit here in Academe and decide that I know better than the men on the plant floor and in the business office what should have gone into the contract they must live under. I would also be taking their money dishonestly. They are paying me to be their servant, not their fellow-negotiator." **End**

COMPLAINT FORM - FOR USE IN STEP I

International Union _____

Local No. _____

Complaint and Grievance No. 68 Date 1/26/59

Department 142 Shift First

Employee's Name George Jones Clock No. 310

Employee's Phone Adams 7-6341 Seniority 3-7-53

Notes:

1. Not clear as to time of Jones' arrival on Monday morning. Jones says 7:20 a.m.; Foreman says 7:50 a.m. Starting time of shift is 7:00 a.m.
2. Company time clock records show 6 late arrivals for Jones - 5 less than 15 minutes, one of 25 minutes in past year. (Checked by steward and found to be accurate).
3. No reprimands given to worker or union in accordance with Sec. 7, Article IV. No previous penalties.
4. Jones' incentive earnings are lowest of 8 men in the department doing identical welding operations. Company mentions this to show Jones' indifferent attitude and to justify not overlooking Jones' repeated tardiness. Men in department agree that Jones is lowest producer.
5. Search of union grievance files shows no previous grievances on suspensions for tardiness.

Company's Reply Date _____

Company decision given by: _____

(signed) _____

Department Steward

(Use reverse side if more space is needed)

The University of Wisconsin
School for Workers
Training for Arbitration

THE ABOLISHED JOB

BACKGROUND

Boilermakers Local 27 has been recognized by the Billings & Springer Company, of Hartford, Connecticut as the exclusive bargaining representative for production and maintenance employees at the plant.

The Company is a drop forge plant in the Eastern part of the United States. While business has in the past been fairly good, there have been slack periods. Recently the Company was taken over by a larger company called General Forgings. The name of the subsidiary company was not changed, but a new plant manager was brought in by the parent company, and he has some definite ideas about improving the profit picture, which is currently poor due to a downturn in orders.

The last contract was negotiated in 1963, just before the company was taken over by General Forgings Corp.

The Local Union is serviced by a business agent. In addition to the Billings & Springer plant, the local also has three other companies organized in the Hartford area. The Local currently has a membership of 900 paid-up members. Each of the four plants has a separate agreement, which vary from good to poor. The Billings & Springer contract is one of the poorer.

The Local Union was involved in a strike over wages in 1958 - the strike lasted only three weeks, but the Union succeeded in securing a small improvement in the wage package as a result. The members are not particularly anxious to repeat the process for a while, however.

The Union has been involved in three arbitrations with Billings & Spencer on previous occasions. In 1960 the company bypassed a senior employee to give a Machine Operator Job to a man who allegedly had better dexterity, according to an aptitude test he was given. The senior man refused to take the test on the ground that it was not a bargained part of the promotion procedure. The arbitrator went along with the Company position in the case. In 1961, the company discharged an employee for incompetency, but an arbitrator ruled that he should be returned to work. The third dispute with the company involved a three-day layoff of a man who made a practice of coming to work late. The arbitrator ruled that the layoff was in accordance with past practice and the current agreement provisions, and the discipline stood.

THE GRIEVANCE

On July 1, the Company notified George Dix, the Yard Clerk & Stock Painter, that his job was being abolished, and that he was free to bump onto the next job that his ability, competance and seniority entitled him to. Dix was told that the reason his job was abolished was because there was not sufficient work left during the slack period to warrant the services of one man, and that residual duties would be performed by the Yard Foreman.

Dix immediately filed a grievance protesting the Company's action, and while the grievance was pending, "bumped" into the job of Fork Lift Operator, which he has worked prior to taking the Yard Clerk's job. His "bump"

set off a chain of similar "bumps" until the junior man in the Janitor classification was notified that his services were no longer required, and he was laid off.

The Company, at the time of the action, stated that there was the possibility that the job would be reinstated when economic conditions and forging orders warranted, at which time Dix would be free to bid on the job as was provided for in the agreement.

The Yard Foreman, following the Company's action, has been performing most of the duties previously performed by the Yard Clerk and Painter, Stock.

During the period prior to the Company action, the Yard Foreman, as well as other supervisory personnel, had a good deal of time on their hands due to the slack business period. The Yard Clerk and Stock Painter's spare time was spent performing various incidental duties as required by the Foreman. Since orders for billets and ingots were less than ordinary, more time was spent performing other incidental work, including the following:

1. Lubricating & storing dies, picking up and delivering dies as required, using hand truck or the fork lift truck (some of this work was done by other members of the bargaining unit during busier times).

2. Doing spot checks of weights of billets & ingots against mill invoices to determine whether proper sizes were delivered to the plant (the Company had occasional problems resulting from improper stock sizes). During busy periods this work was not done.

3. Minor yard clean-up work as directed by the Foreman.

When the foreman is rushed, other foremen have been directed to come out to the yard to assist him. This has happened on occasion since Dix's job was abolished (at least three times).

The job os Yard Clerk and Stock Painter is of such a nature that a certain amount of time has always involved periods of little or no activity (see job description). This was the case even prior to the downturn in business.

On several occasions in the past the Company, when they believed business conditions warranted, have moved foremen back into the bargaining unit and restored their original seniority. When business improved, the foremen were placed back on their supervisory jobs. The Union has never agreed that this was a proper procedure, but since no union members were ever required to take a demotion or a cut in pay, no grievances were filed. In the present instance, the Yard Foreman's name was not placed on the Seniority roster, as was the case previously. (Note: on the previous occasions the Foremen's names were removed from the seniority list immediately following a move out of the bargaining unit)

At the last contract negotiations in 1963, the Company and Union agreed to raise the rate of the job of Yard Clerk and Stock Painter by 34¢ per hour to compensate Dix in lieu of the indirect incentive plan that was abolished for his position. The job had formerly been placed on incentive to encourage the Yard Clerk and Stock Painter to locate and mark stock rapidly enough to keep ahead of Forge Department needs.

Prior to 1951 the Company had assigned the duties performed by the Yard Clerk and Stock Painter to the Yard Foreman, but since the unit of production and maintenance was organized by the Boilermakers in 1955, the job has always been listed in the Wage Appendix of the Agreement.

August 25, 1964

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School for Workers

THE WILDCAT STRIKE

BACKGROUND

Molders Local #163 has been recognized by the Love Brothers - Giddings Company of Hartford, Wisconsin as the exclusive bargaining representative for all foundry operations since 1912.

The Company operates in the city of Hartford in three plants, designated Number one, Number two and Number three. Plant #1 handles the heating, pouring and molding, Plant #2 pouring, molding, chipping & grinding, and Plant #3 handles weighing and shipping. All three locations are organized into Local #163 and are covered by the same contract.

The last contract was negotiated in 1964.

The Local Union is serviced by a business agent with the assistance of the District Representative. The Local currently has a membership of 475 paid-up members, most of whom are employed at Love Brothers - Giddings Company. In addition to the foundry operations, local #163 has a nearby barber shop and employees of a pool hall three blocks from the plant organized.

THE GRIEVANCE

July 24, 25 and 26 were warm and humid. Although the 25th and 26th were not days of work, they were warm enough to make tempers short. In addition, the men had been working considerable overtime due to an increase in orders for castings for the automobile and machine tool industries. Conditions were "right" for trouble on Monday, the 26th of July.

Approximately one hour after the shift starting time of 6:00 a.m., the Molders in Plants 2 and 3 left in one big group. Shortly thereafter the employees in other departments at both plants were sent home. Those employees had reported for work and had worked for approximately one hour. A grievance was filed on behalf of the Soft Iron Department in Plant two on July 28, 1965. The steward signing the grievance was requested to obtain the names of the employees involved in that grievance. Fifteen men signed the grievance, which was then again presented to the Company. The grievance alleged a violation of Article VI, Paragraph 1.

On July 29 a grievance was filed on behalf of employees in the Chipping and Annealing Departments in Plant 2, which was thereafter signed by four employees. That grievance requested three additional hours of pay in accordance with the contract. No grievances were filed on behalf of any other employees similarly affected in either Plant 2 or Plant 3.

On July 29 a joint letter was sent to the Wisconsin Employment Relations Board, advising the Board of the issue involved in the request for arbitration. That letter contained the following paragraph:

> "2. On July 26, 1965 the Company's molders reported to work but then decided it was too hot to work and walked off the job en masse without the Company's permission. Thereupon Management sent certain other groups of employees home. A grievance was filed on behalf

of some of these employees claiming they were entitled to report-in pay under the provisions of Article VII set forth in paragraph 1 above. Management contends that the paragraph does not apply because the situation comes within the exception set forth in the paragraph."

The Molders did not return to work on July 27, 28, or 29, 1965. The Company received no notification of their intention to report or not to report on any of those days. Following communication by the Company with the International Vice President, the Molders returned to work on Friday, August 30, 1965. All other employees worked on Tuesday, Wednesday and Thursday of the week in question. The Chippers involved in one of the grievances did not report to work until Friday, July 30, the same day as the Molders returned. No disciplinary action was taken against the Molders.

IN THE MATTER OF ARBITRATION

LOVE BROTHERS - GIDDINGS COMPANY Hartford, Wisconsin -and- MOLDERS AND ALLIED WORKERS UNION Local Number 163	AWARD In the matter of three hours report-in pay for 19 aggrieved employees Hearing: August 5th, 1965

APPEARANCES FOR THE COMPANY - Harry S. Mason, Counsel; Mr. James R. Juno, General Superintendent, Plants #1, #2, #3; Mr. David Carnegie, Foreman, Plant #2; Mr. Kelby O'Hara, General Foreman, Plant #3

APPEARANCES FOR THE UNION - Mr. George S. Hagglund, District Representative, Molders & Allied Workers' Union; Mr. James Gross, President, Local #163; Mr. Edward Egielski, Chipping Department Steward; Mr. Rober Slaughter, Grievance Committeeman, Soft Iron Department; Mr. Charles Morehead, Soft Iron Department Steward

AWARD

The Company shall pay each of the 19 aggrieved employees three (3) hours pay at their regular hourly rates of pay for Monday, July 26, 1965

It is noted for the record that the parties agreed to waive the standard arbitration opinion in favor of a summary statement of the basis of the award, in the interest of an early decision

* * * * *

Decision and Award

The Provision of the Agreement cited as applicable in the instant dispute is hereinafter set forth as follows:

ARTICLE VII - REPORT-IN PAY

> 1. If an employee reports for work, unless previously notified not to report, he shall receive four hours' pay at not less than his regular hourly rate. The provisions of this paragraph shall not apply in case the inability of the Company to provide work is due to conditions beyond its control. In the event of any down time due to power failure involving more than twenty minutes interruption of work in any one day, employees who are required by the Company to remain at work will be paid at their base rate for the time that they are unable to perform their regular duties because of said power failure.

The provision, in and of itself, is clear and unambiguous. The primary issue before the Arbitrator is centered on the exception to the application of the provision covering instances where the inability of the Company to provide work is due to conditions beyond its control. The background of the development of provisions of this type is sufficiently well known to the parties and requires no further analysis or discussion. Employees reporting for work and who have not been prev iously notified not to report, must receive four hours' work or four hours' pay. The only exception is in that area where conditions arise beyond the control of the Company, which would prevent the Company from providing the work necessary to keep the employees occupied during the first four hours following their respective report-in time. The words "due to conditions beyond its control" encompass a wide area. Power failures, unanticipated machine breakdowns, flood, fire, and other factors could create conditions and circumstances which would fall within the exception portion of the general application of the provision.

In the instant case, the Company had the right to expect that when the Molders reported for work, they would remain on the job for the full period of the shift. When the Molders left work without permission, they subjected themselves to disciplinary action and placed the Company in a position where it was required to re-evaluate its production schedules and needs. The Company was not required to "make work" for those employees who remained on the job, but if work could have been provided for them for an additional three hours without disrupting the basic efficient operation of the plant, the Company was required to retain those employees for the full four hours, as provided under Article VII, paragraph 1. Employees who leave their jobs without permission create a condition which generally would fall within the exception portion of the application of Article VII, (1), as it would apply to the remaining employees. The question that must

be determined is whether or not the Company could have in fact provided work for the grievants. If work was available and could have been provided within the area of efficient operation of the plant, sending the grievants home after one hour of work would, in fact, constitute a penalty against employees who had not violated the contract, while at the same time permitting the Molders to violate the agreement without the imposition of any similar type of penalty.

The Company stressed the fact that the weight-shifting needs were of paramount importance in its decision to send the employees home. Weight-shifting occurs normally near the end of the shift and a considerable period of time after the first four hours of the shift. The grievants would have completed four hours of work at approximately 10:30 a.m., and if the Molders had continued to work, the employees assigned to weight-shifting would not have performed those duties until approximately 1:30 p.m. There was unquestionably cleaning and chipping work available, which could have been performed, as evidenced by the fact that that type of work was performed for some 15 additional hours on Tuesday, Wednesday and Thursday of the same week, even though the Molders did not work on any of those days. The Company contended that it provided the work because of pressure from its customers to ship whatever finished products that it could, and, in addition thereto, it was necessary that the remaining employees work in order that the molding production, which had been accumulated prior to the time that the Molders left their work, could be weighed in order that the payroll computations could be completed before Friday of that week.

On the basis of the evidence offered, it is the opinion of the Arbitrator that work was available for the additional three hours on Monday, July 26, in the classifications where each of the grievants normally worked and which could have been performed without disrupting the normal flow of work and without impairing the efficient operation of the plant for the additional three hours involved on Monday, July 26, 1965. In substance, it is the opinion of the Arbitrator that the theory upon which the Company relied when it sent the grievants home on Monday, July 26, was contractually sound, but the facts and circumstances which were actually in existence on that day did not support or warrant the application of that theory. The grievants on Tuesday, Wednesday and Thursday performed exactly the same kind of work without the availability of any additional molding production on those days. The grievants could have and should have been permitted to continue their normal functions for an additional three hours on July 26, 1965.

The joint submission to the Federal Mediation & Conciliation Service refers to a grievance filed on behalf of "some of these employees. * * * " Although the grievance of July 28, 1965, refers to the "Soft Iron Department," it was specifically signed by certain named individuals, which removed the grievance from a general departmental or group grievance and thereby covered only the actual signers thereof. The same situation existed with respect to the grievance of July 29 covering the four named employees in the Chipping and Annealing. Theaward, therfore, will cover only those employees who are named as grievants.

AWARD

The employees who signed grievance number 470 dated July 28, 1965 in the Soft Iron Department and those who filed grievance number 471 dated July 29, 1965 in the Chipping and Annealing Department, both departments in Plant #2, shall be entitled to receive an additional three hours of pay at their repsective hourly rates of pay for Monday, July 26, 1965.

Anthony W. Sinicropi/s
August 6, 1965

AGREEMENT BETWEEN ---------

Love Brothers - Giddings Company

and

International Molders' and Allied
Workers' Union, AFL-CIO

Hartford, Wisconsin

Article I - Purpose

1. The general purpose of this Agreement is to promote the mutual interest of the Union and the Company, to provide for the operation of the plant of the Company under methods which will further to the fullest extent the safety and welfare of the employees, economy of operations, quality and quantity of production and minimization of waste, to establish rates of pay, hours of work, and to avoid interruptions of work.

Article II - Recognition

1. The Company recognizes the Union as the sole collective bargaining agency for all production and maintenance employees employed by the Company at its Hartford, Wisconsin plant, excluding all office and clerical employees, salesmen, timekeepers, foremen and all supervisors as defined in the National Labor Relations Act.

Article III - Management

1. The Management of the Company, and the direction of the working force, including the right to plan, direct and control plant operations, hire, suspend, or discharge for proper cause, or transfer or relieve employees from duty because of lack of work, or for other legitimate business reasons, and the right to introduce new or improved production methods or facilities, is vested exclusively in the Company; provided that nothing contained herein shall be used for the purpose of discriminating unfairly against any member of the Union. This Article shall be applied in conformance with the other provisions of this agreement.

Article IV - Grievance Procedure

1. A grievance is any difference of opinion or dispute between the Company and any employee or Union representative regarding the interpretation or operation of any provision of this Agreement, and shall be dealt with as follows:

   a. The Grievance is to be first taken up with the foreman of the Department involved by the aggrieved employee or the Department Steward, or both.

   b. If the Grievance is not settled in one (1) above within two working days then it shall be submitted in writing to the Department Manager and taken up with the Personnel Manager and the Union President, Department Steward and the Business Agent. If no settlement is reached, a conference with the Company's Executive in charge of negotiations, or his representative, will be arranged as soon as possible and in no event later than one week.

c. If the conferences do not satisfactorily settle the grievance then it shall be submitted to arbitration as herein provided, and provided such request is made in writing.

Article V - Arbitration

1. In the event that both parties fail to adjust any controversy arising out of this Agreement over wages, hours or working conditions, or the interpretation or application of this Agreement, the Union and the Company hereby agree to submit for arbitration such grievances to the Wiconsin Employment Relations Board and its decision shall be final and binding until the expiration of this Agreement or any extension thereof.

Article VI - Seniority

1. Seniority shall be observed on a basis of accumulated service in any one department and shall not begin until after twelve (12) months of employment in any one Department. These Departments, sub Departments, and Groups, shall be in accordance with the master seniority list mutually agreed upon by the Company and the Union and maintained in the Company's Personnel Office, copy of which is supplied to the Union.

2. The Company shall also keep posted a seniority list based upon Company records showing the date of last hire, said seniority list to be correctly revised at thirty (30) day intervals.

3. When conditions warrant a decrease or increase in the number of employees, the following factors shall apply:

   a. Seniority (Department-wide)

   b. Ability

   c. Competency to perform the work

   Where ability and competency are substantially equal, seniority of service shall govern.

Article VII - Report-in pay

1. If an employee reports for work, unless previously notified not to report, he shall receive four hours' pay at his regular hourly rate or not less than four hours' work at not less than his regular hourly rate. The provisions of this paragraph shall not apply in case the inability of the C mpany to provide work is due to conditions beyond its control. In the event of any down time due to power failure involving more than twenty (20) minutes interruption of work in any one day, employees who are required by the Company to remain at work will be paid at their base rate for the time that they are unable to perform their regular duties because of said power failure.

LABOR-MANAGEMENT INSTITUTE
UNIVERSITY OF CONNECTICUT

TRANSCRIPT OF AN ARBITRATION HEARING

JAMES BROTHERS, INC.

AND

LOCAL 125, INTERNATIONAL UNION OF MINE WORKERS, CIO

An arbitration hearing in the above case was held on May 19, 1952 at New Haven, Connecticut for the purpose of arbitrating a dispute over the discharge of an employee of James Brothers, Inc.

Those present were:

The Arbitrator

Company Attorney
Company Personnel Manager

Union President
Union Steward

PERTINENT CONTRACT CLAUSES

Article II, Section 2

Except as otherwise set forth in this agreement, the Union recognizes the retention by the Company of the usual management rights, including, but not limited to ... the right to hire, suspend or discharge for just cause ...

Article IX, Section 8

The Company may discharge an employee for proper cause ...

Article IX, Section 10

If a discharged employee desires to make a complaint concerning his discharge, his steward shall file the same in writing within five working days of the discharge ... If the employee is found at such hearing to have been unjustly discharged, he shall be reinstated and receive his regular hourly base payroll rate of compensation, not to exceed five days' pay.

Article V, Section 8

Settlement of all grievances involving the payment of money, including adjustment of protested incentive rates, shall not be retroactive beyond the date on which the grievance was filed in writing.

Arbitrator: The question we will consider this morning is the discharge of Jack Lafano. I would like to straighten out the submission: "Whether or not the Company violated the Contract in the discharge of Lafano." The Union proposed that in the event it is determined he has been discharged unjustly he shall be reinstated with back pay for all time lost.

Company Attorney: That would be determined under the Contract also.

Union President: That is covered under the grievance procedure on the matter of money on page 14 and page 23, Section 10.

Arbitrator: There is no necessity then for any further discussion of the issue? The question is: Did the Company violate the Contract in the discharge of Jack Lafano? We will proceed. This was filed on the 15th of February?

Union President: That is right. Jack Lafano, an employee of James Brothers was arrested on December 10, 1951 and subsequently served 45 days in jail for breach of the peace. The Company was informed of his arrest the day after it occurred. Upon his release from jail, he reported to work and was informed that he had been fired. When the Union filed a grievance seeking Lafano's reinstatement, the Union was informed that he was "discharged for cause" - the cause being the fact that he had served "over thirty days in jail." The Union seeks the reinstatement of Lafano without loss of seniority and with back pay for all time lost as a result of an unjust discharge. The Union's position is that the company's discharge of Lafano violated the existing agreement between the parties. Nowhere in the agreement does a jail sentence of any duration in itself constitute sufficient grounds for discharge of an employee. Until Lafano's case was processed through the grievance machinery the Union never knew of any "30 day" rule on the part of the Company. The Union has never made any agreement either orally or in writing with the Company that a jail sentence in itself constitutes sufficient grounds for the dismissal of an employee. The breach of the peace for which Lafano was tried and sentenced was not the result of an incident arising out of the employment relationship between Lafano and the Company but was wholly separate and distinct therefrom. Under such circumstances, management can not presume to set itself up as the moral arbiter of the lives of its employees nor seek to police and pass judgment upon their private lives. So long as the conviction did neither affect nor threaten stable employment relationships (such as conviction for theft or assault on a fellow employee), the employer can not use it as a pretext for dismissal. The "dismissal for just cause" in our agreement can not therefore apply to this case. The Company has no right under the terms of the existing agreement between the parties to adopt "rules" to justify a discharge. The Union is the sole collective bargaining agent for all production and maintenance employees in regards to working conditions and any rules governing discharge would have to negotiated with the Union. From a common sense viewpoint, the Company's dismissal of Lafano was completely unjustified. The Company had hired employees who served prison sentences for longer periods than Lafano. Everyone in the plant knows it. To now pick Lafano to make an example of him is completely unfair. The Company's action furthermore violates one of the basic principles of fair play and sound theories of penology. Lafano having committed a breach of the peace has paid his penalty. To fire him from his job is to add an additional and unwarranted punishment for his act. Lafano out of work can constitute a hazard to society. Jobs today are not easily available. The only place he can re-habilitate himself is where he has worked and had an unblemished work record. In view of the above, the Union asks that Lafano be returned to work with full back pay. That is the Union's position on the issue. We have cases here sent to us on similar issues.

Union President: Continued
We have the case of the Caterpillar Tractor Company, 7LA. 554. It was ruled that assault on a fellow employee was not cause for dismissal. The arbitrator ruled that control ceases after an employee leaves the Company premises. Another case is that of Pioneer Gen-E-Motors Corporation, 3LA 486. The same reasoning and same conclusion were reached. Also the same reasoning was reached in the Verdun Manufacturing Company Case, 10 LA 637.

We feel this employee is entitled back to his job with full reinstatement of back pay. It is quite clear that management has no right to discharge a person for something he did outside of the employment of the Company. We have quite a few employees in the plant that have jail sentences and the Company never questioned this. Some were arrested before and the Company never took action. I don't think it is fair to this employee at all.

Arbitrator: Other employees were arrested before?

Union President: And employed by James.

Arbitrator: Before they were hired?

Union President: We feel the Company has no right to fire anybody like that. If a guy gets arrested out on the street, it has nothing to do with his employment at James.

Arbitrator: Can you give us specific cases where an employee was arrested?

Union Steward - Joe Turno He worked as a tool setter and was arrested for some reason and given six months. After his term, he was rehired. I don't know whether or not he lost seniority rights.

Union President: This man has paid his penalty from the courts. We don't feel the Company should give him another penalty on top of the one he served. We feel that it is the duty of the courts to penalize anybody for anything he does outside the Company.

Arbitrator: What was he sentenced for?

Union President: The Company never raised issue because it was stated clearly in the minutes by the Personnel Manager that regardless of what he was arrested for it was not cause for discharge.

Arbitrator: Then that is not a problem before us today.

Company Attorney: I think it is relevant but we are not relying upon it.

Arbitrator: Cause for discharge is not defined in the Contract in any way?

Union President: The Union says that just cause is the cause.

Company Attorney: There are two clauses. One is Article II, Section 2 of the Management clause which refers to the retention by Management of its right to discharge for just cause, and Article IX, Section 8 which has specifically to do with discharges and refers to discharges for proper cause, so that if there is any difference between those two words the discharge would be upheld if it were either for proper cause or just cause. There may be distinction between the two words. The facts are these. Mr. Lafano was arrested on December 9, 1951. He was arrested and charged with contributing to the delinquency of a minor. He did not appear for work on December 10. The first time we heard what happened to him was on December 17 when his wife advised the Company of his difficulties. His trial did not take place until December 26. At that time he was sentenced to 90 days. Subsequently, apparently and as we were advised, due to his family circumstances and needs, the sentence was reduced to 45 days. He was discharged when we learned that he would be absent from the plant for 90 days. Now a little while ago, the question was raised as to what, if any, importance is to be placed on the type of offense he was charged with. We say that the type of offense he was charged with is relevant to the case but I don't believe we have to rely on that. There are certain types of offenses which by themselves, even if a man is not sentenced to a long period in jail, make a man unsuitable to work as an employee in any plant. For example, if a man were determined to be a kleptomaniac, I think that even if he were not sentenced to a long period in jail, it would make him unfit to be an employee. He is not the kind of a person which a plant should be required to keep in its employ and the discharge of such an individual, I think, would be just and would be for proper cause.

But, aside from that though, what we actually discharged him for was because he was not going to be available for work at the time we discharged him for a period of three months. We are in business. We don't give leaves of absence for long periods of time. We don't give leaves of absence to anyone except for what we consider to be a good reason. There is nothing in the Contract about leaves of absence except for the purpose of union activities. We think we were entitled to fill this man's job with another man. It isn't placing a man on trial twice for the same offense as he said. We weren't really concerned about the offense in judging whether or not he was guilty or how bad the offense was. We were concerned with his being absent for 90 days from the plant. That is the reason he was discharged. There have been other cases of this type where companies have been upheld. I want the opportunity if I can have it of looking into these cases the Union referred to. I think I have a good idea of what they are about. I remember the Caterpillar case even though it happened about 7 years ago. For instance, striking a foreman off the job, if a company discharges an employee for that offense, they are discharging a man because of actions which they think make him unfit to be an employee especially if his striking is done in the direction of supervisors. Those cases the Union cited did not have anything to do with a discharge because a man would not be available for work. We are talking about here a man not being available for work. If you carry the Union's argument to its extreme which would seem nonsensical but illustrates the point. Let us say that Mr. Lafano in time of war had been sent to jail for treason for ten years. True, he had paid-the penalty for violating the law as far as the Government is concerned but we are not obligated, it seems to us, to keep the job open for 10 years. That is just carrying the same situation to an extreme and making the position the Union is taking much clearer.

You might say, "Well, what if a man were caught speeding and was sent to jail for a couple of days?" Under those circumstances, I suppose someone might quarrel with us if we took the position he was discharged because he was going to be absent two days. That is not the situation. We are talking about a sentence for three months. The fact that he got out in 45 days doesn't have any bearing on the case. He was discharged at the time he was sentenced.

Company Attorney: Continued

It was going to be three months. Even if it were 45 days, the action would be the same. It was 90 days.

Arbitrator: What was his classification?

Personnel Manager: Laborer.

Company Attorney: We are not making the argument that we should be allowed to replace him because his was a highly skilled job and we couldn't hire another man to take his place unless he was guaranteed a permanent job. We are saying that we do not have to keep a man's job while he spends his time in jail. We should not be required to.

Personnel Manager: I would like to remark on the point raised on Joe Turno. He was sentenced to a long term in jail and was terminated in the same way as Mr. Lafano. When he came to work he was a skilled lather hand. He was rehired when he came out as a new man losing all seniority and all benefits.

Arbitrator: He was terminated? You mean he was discharged?

Personnel Manager: That is right. So far as remarks about other people in the plant who served jail sentences, that is so. We have people who served jail sentences before they worked for us. During the War when we began to check on people working for us we found out a lot of information which is confidential. I remember instances where we took people just out of jail and gave them jobs to help them along.

Arbitrator: You base your claim on unavailability for work during this period. Would you consider rehiring him?

Personnel Manager: I will tell you what happened to the job. Around the time this happened, we had a man with us for many years longer than Mr. Lafano who because of a physical disability became unable to do the job he was on. We had to find something for him to do and he got this job. This fellow was working in the plant as a grinder and was not able to continue on. We did want to find something for him if we could. This is the job he got and holds. As far as reemployment, everyone knows the situation. We have had substantial layoffs.

Arbitrator: Would you rehire him if there was an opening for a laborer?

Personnel Manager: I would have to say no.

Arbitrator: What service did he have?

Personnel Manager: Since November 30, 1945, until this thing happened, about 6 years, a little over 6 years.

Company Attorney: When you ask that question and when the Personnel Manager answers, he is taking into account the nature of the offense the man was charged with. The charge was changed to make it easier for him. That to me is an obvious reason why we would say no.

Arbitrator: Do you know for a fact that is why it was changed?

Union President: We called the courts. It was such a muddled up affair they didn't know what to do. Due to the fact that the man couldn't speak English or write it, he was clipped. They couldn't charge him for what he was called in for. It seems very much like they wanted to dispense with the case

Union President: Continued

and charged him with breach of the peace. That is what the courts told us, that it was a muddled affair.

Union Steward: On this other fellow who was rehired in his place, there was quite a squabble that Mr. Lafano's place was not filled for some time.

Company Attorney: If his position was not filled for some time, perhaps there was no job to begin with.

Union Steward: It could be possible you pushed the work on someone else.

Union President: In a meeting we had with the Company, the Company stated that the charges this man was jailed for would not be reason for discharge. Now their lawyer brings up the issue why he was arrested and trying to make it have a bearing on the case. I don't think it has. There were a lot of children molested in the Red Mill Village. Mr Lafano lived around there. He was picked up and the pressure from the people was great. They had to put some pressure on this fellow. They figured they would blame him. That is why they changed the case to breach of the peace. They really didn't have a case on it. All the person is charged with is breach of the peace. That is the reason he was given 45 days. The Company stated clearly it had no bearing on this discharge. As far as the man not being capable to work in the plant, if the Company thinks he is not capable to work they should have fired him before this. He was employed in 1945. This is 1952. It has no bearing on the case at all. His work record is good. The Company has not questioned his work record. As far as his job not being available, we know there are laborers in the plant now that have less seniority than this guy.

Arbitrator: It would seem that I can't presume to make a determination as to whether or not this person was sentenced to jail justly. The matter before me is to determine whether or not he was discharged for proper and/or just cause under the terms of your Agreement with the Company. Do you want to comment as to the Company's position that absence for extended period over 90 days is justifiable?

Union President: The Company could put someone on his job while he was out. We feel it is not just cause. He was arrested outside of the employ of the Company.

Arbitrator: Would 90 days of absence be just cause?

Union President: Why should the Company say that 90 days of absence is just cause? They have given people leaves of absence to go to Europe three or four months at a clip. The man here is paying a penalty by law. He should be entitled to the job. The Company Attorney says they have reasons for giving leaves of absence. Is a vacation for three or four months at a time a reason? Certainly, this guy should have the right to come back to his job in 90 or 60 days, whatever the term is he has to serve in jail.

Company Attorney: In connection with that, although I don't think it is completely relevant, you might be interested to know as far as loss of seniority rights are concerned, on page 24 it says:

"12. An employee shall lose his seniority rights and be removed from the Company seniority records if he:

C. Is absent for five (5) working days without reporting except when circumstances caused by sickness or accident make it impossible for him to report, or for anyone else to report for him."

Company Attorney: Continued

That hasn't to do with a discharge. Seniority is an important right and we have agreed that it is possible for a man to lose seniority rights by reason of a 5-day absence.

Arbitrator: From December 9, when he was arrested to December 17, you heard nothing of this matter? The absence was for reasons unknown to the Company?

Company Attorney: That is right.

Union President: I think it was the next day after the person was arrested that the Company gave him a discharge slip.

Company Attorney: Are you sure? We are saying he was discharged December 26.

Personnel Manager: The discharge was made retroactive to December 10. Your notice was probably dated December 10, but you didn't get it until after Christmas.

Union President: In that clause the Company Attorney cited, it says: "when circumstances caused by sickness or accident make it impossible for him to report, or for anyone else to report for him." We know this person couldn't call up. He didn't have a telephone booth in his cell. I doubt if his wife can speak English. She wouldn't be able to.

Company Attorney: She told us on the 17th what happened to him.

Union Steward: There were a lot of questions in the employment office too.

Company Attorney: We are not here rehashing what was done in court. I don't go along with the theory the Union is advancing that a man is sentenced in court to a jail sentence because they have to do something with the cases, that they send people to jail to get rid of cases. I don't go along with it. We have said already that we didn't discharge him because of contributing to the delinquency of a minor but the Arbitrator asked whether we would take him back. We will take into account the nature of the charge made against him. A couple of paragraphs you ought to keep in mind are Article IX, Section 10, the discharge paragraph referred to at the beginning of the hearing; and you should also take into account Article IX, Section 8. Do we have in the record all the dates? The date when the grievance was first filed was February 15, the date the man applied again for work was the day before the grievance was filed, February 14. The date the man returned looking for work was February 14?

Union President: Yes. Retroactive pay is based on the date the grievance was filed.

Company Attorney: There is some question in the Arbitrator's mind on the section which speaks of the maximum of 5 days.

Arbitrator: It appears that is not a matter before me today.

Company Attorney: The clause referred to first is Article IX, Section 10 and has to do with discharges and you will notice that the last sentence in that has to do with reinstatement.

Arbitrator: To the effect that if the employee is found at such hearing to have been unjustly discharged, he shall be reinstated and receive his regular hourly base payroll rate of compensation, not to exceed five days' pay.

Union President: That is grievance procedure.

Company Attorney: The issue is very clear before you. The Union has said plainly that no matter how long he was sentenced to be incarcerated, that is his penalty. He is entitled to come back to his employer at the end of that period with full seniority rights I take it. I don't know whether or not he accumulates seniority while he is in jail. We don't need to go into that. We say that is an unreasonable, impracticable, and dangerous kind of policy to make as an obligation of any employer.

Union President: The Union is not saying that if a man has to serve 5 years in jail that the Company has to take him back. If a man has to serve a reasonable length of time, he is entitled back to the job.

Company Attorney: What is a reasonable length of time to spend in jail?

Union President: That would be a matter of negotiation.

Company Attorney: We have to negotiate how long a man should spend in jail before taking him back? That is one of the rights we hope to hang on to.

Arbitrator: We should confine our discussion to the length of time away from work. As the Company Attorney said, the Company feels there is a certain amount of relevancy to the reason for his being out of work. Our determination should be made on the basis of the time away from work.

Company Attorney: I don't want to say anything which would imply that if a man were charged with murder and managed to get out and we had good cause to believe he was guilty we would take him back. I don't want to make that statement even if he spent only six months getting free.

Union President: Management seems to feel they have the right to judge whether they are free from murder.

Union Steward: It is a breach of peace he was charged with and they are trying to say he did something else. He is not charged with something bad. He hasn't harmed anyone. I didn't say the man was judged innocent. The thing was so muddled they didn't know what to do. If a court had him for delinquency, they wouldn't charge him for breach of the peace.

Personnel Manager: We have nothing further.

Union Steward: If they can give people leaves of absence to go to Europe, this is good enough cause to give him the right to have time off.

Company Attorney: We have retained the right to grant leaves of absence for reasons we deem proper. We do not propose to give anyone a leave of absence to go to jail at any time for any length of time.

Arbitrator: If neither the Company nor the Union has anything additional to offer to me to assist me in arriving at a fair decision, we will consider the matter closed.

UNIVERSITY OF WISCONSIN
SCHOOL FOR WORKERS

CASE FOR ARBITRATION

The worker is an Assembler in Dept. 226. He has about 5 years seniority. During 1951-52, he was steward in this department. He was on the ball and was frequently at odds with the foreman, who is still in the department.

In September, 1953, trouble developed between the worker and the foreman. The worker claimed that the foreman was riding him, giving him the dirty jobs and nagging him about production. The worker expressed his thoughts to the foreman, and the foreman threatened him with a charge of insubordination.

The foreman filed a report against the worker. The company brought the matter up for discussion with the Grievance Committee on Oct. 1, 1953, as provided under Rule 5 of the contract. Instead of a direct application of rule 5, the union and the company agreed to a transfer for the worker into Dept. 220 in order to separate the worker and the foreman. This was OK with the worker. It was agreed to by the union on the assumption that this was a special application of rule 5 as it had been used in the past, and that it was not a disciplinary act on the part of the company. The worker reported to Dept. 220 on Monday, Oct. 5, 1953.

On Thursday, Dec. 3, 1953, the company gave the worker and the union committee a copy of Notice of Violation of Rule 5, as follows:

> This worker was given a transfer to Dept. 220 on Monday, Oct. 5, 1953 under the application of Rule 5 of the contract. He has not met the requirements of the job during the 60 day trial period. His general performance is unsatisfactory, his production is not up to standard, he questions the legitimate instructions of his supervisor and interferes with the work of other employees in the department.

As provided in the contract (VI-8, p. 23) the company offered this case for discussion at a meeting with the grievance committee on Monday, Dec. 7, 1953. The committee charged that the company was mis-applying the rule since the initial transfer had not been disciplinary in nature and furthermore, there was no basis for the company's charges. The company contended that the union was wrong and insisted that the grievance committee follow out the provisions of the rule, naming two departments into which the worker could transfer. This the union refused to do. The company acted on its own, named two departments. The worker refused to make a choice on the advice of the union. So the company transferred him into Dept. 225.

The worker thereupon filed a written grievance, charging mis-application of rule 5 and a transfer in violation of the contract. The grievance was filed Friday, Dec. 11. The worker went to work in Dept. 225 on Monday, Dec. 14, 1953.

The grievance committee attempted to adjust this case with the company but was unsuccessful. By early February, 1954, the committee came to the conclusion that the case would have to be arbitrated and was preparing to make such a recommendation.

On Thursday, February 11, 1954, the following events occurred in Dept. 225:

The worker and a fellow worker were doing assembly work in the department. Pieces were bulky, weighing 85 to 90 pounds. Pieces had to be lifted and positions changed. The men were making use of an available overhead hoist.

The foreman came by and questioned the use of the hoist. He claimed it took too much time and therefore wasted money. His remarks were abusive and were directed at our worker. The foreman lifted a piece himself and said that if he could do it alone, the two of them ought to be able to do it. He charged that this was a deliberate effort to slow down. Our worker attempted to defend the use of the hoist, but the foreman shut him up. He said (words to this effect): "I've had my eye on you. We don't want any of your smart ways in this department". He ordered the men to handle the pieces by hand, and left.

Later in the day, the other worker mashed a finger and went to the dispensary after reporting the injury to his steward since the foreman was not in the department at the time. Our worker continued on the job, but began to use the hoist since he was alone. The foreman came by and asked about the absent worker. Then he spoke words to this effect: "I told you not to use that damn hoist". Our worker said: "We weren't, but my buddy has gone". The foreman said: "That makes no damn difference. I can lift those pieces alone and so can you". Our worker said: "You did it once but I have to do it all the time". The foreman said: "By God, I told you to do it one way and that's the way it's going to be done. We expected trouble from you and you're not going to get away with it here. You've been here 60 days and now you've slowed down production and refused to obey orders. You're going to leave this place and not come back".

The foreman handed the worker a notice of violation of rule 5 and took off. He came back soon with a notice of violation of rules 8 and 9. The worker was told that he was fired as of the end of the shift.

The union filed a grievance on the discharge and argued the case with the company at the committee level. The company's main pitch was that the worker was subject to automatic discharge under both rule 5-f and rule 8 and the union could take its pick. The company would not budge and the union decided to take the case to arbitration.

UNIVERSITY OF WISCONSIN
SCHOOL FOR WORKERS

ARBITRATION OF DISCHARGE OF ROSWELL RUDY

COMPANY PRESENTATION

OPENING STATEMENT by Company's chief spokesman

The case which is before arbitration today involves the discharge of Mr. Roswell Rudy. It seems like a pretty clear-cut case and we are somewhat surprised that the union has made an issue of it. However, the company is quite prepared to defend its actions.

Mr. Rudy has been with the company since Jan. 6, 1949. We would like to submit Company Exhibit 1 which is a copy of the Department and Rate Record of the employee.

(The company gives copies of Exhibit 1 to the arbitrator and to the union)

The company does not believe that this exhibit needs to be discussed, but will be glad to answer any questions if there are any.

(Company answers any questions from union or arbitrator)

The circumstances which led to this discharge are not new. The company has had occasion to discipline Mr. Rudy in the past. It was our that his attitude and actions might change as a result. We regret that this has not been the case.

To back up this statement, the company wishes to intorduce its Exhibit 2, which is a record of warnings and complaints filed against Mr. Rudy. As the union knows, this is our customary procedure in matters of this sort.

(Company gives copies of Exhibit 2 to union and arbitrator)

Since these facts have a direct bearing on this case, we would like to read it into the record.

(Company reads Exhibit 2)

Again we will pause to see if there are any questions from the union or the arbitrator.

UNION SPOKESMAN ASKS: Is it not true that the complaint dated 2-6-51 was suspended because the union convinced the company that there was no basis for the penalty?

COMPANY SPOKESMAN: It was settled at a regular grievance meeting.

UNION SPOKESMAN ASKS: Is it not true that the complaint dated 1-10-52 was settled in arbitration as the result of a grievance filed by the worker. The arbitrator awarded one week's pay which the worker lost.

COMPANY SPOKESMAN: We don't have that noted here, but you may be right.

UNION SPOKESMAN: We have the records right here if the arbitrator wants to see them.

COMPANY SPOKESMAN: That won't be necessary.

UNION SPOKESMAN: We naturally have other questions on these complaints, but we will get to them later.

COMPANY SPOKESMAN CONTINUES PRESENTATION: The company would like to introduce one other exhibit at this time. This is Exhibit 3. It is a list of verbal warnings directed to Mr. Rudy.

(Company gives copies of Exhibit 3 to union and arbitrator)
(Union studies exhibit briefly)

UNION SPOKESMAN: We must enter an objection to the introduction of this Exhibit 3. We will detail our objections later when we present our side. But right now, we want to call the arbitrator's attention to the fact that these are records kept solely by the company. The worker does not know about them. The worker does not receive any copy of a verbal warning.

COMPANY SPOKESMAN: If the union is implying that this is not a bone fide exhibit and that these warnings have been fabricated, then we resent the implication.

UNION SPOKESMAN: We did not say that. We will get to this thing later on.

COMPANY SPOKESMAN: All of our submission so far has been in the nature of background material. It is designed to give the arbitrator a broad picture of the situation. We would now like to place our first witness on the stand, Mr. Wilcox.

(Arbitrator swears Wilcox in)

THE COMPANY SPOKESMAN QUESTIONS WILCOX:

Q: Please tell the arbitrator your name and job.

A: My name is Richard Wilcox, foreman in department 226, day shift.

Q: Were you foreman at the time that Mr. Rudy was in the department?

A: I was.

Q: Will you describe the circumstances which led to the transfer of Mr. Rudy from your department?

A: Rudy was in the department for about 4 years. We had a lot of trouble with him. His production was never too good and he used to beef a lot about what he was told to do. I had to keep on him all the time and he seemed to resent it when I talked to him. He was always sounding off to the other employees. The records show that we had to warn him a lot, but they don't show half the trouble we had.

Q: You have a copy of Company Exhibit 2, Record of Warnings and Complaints. Do you recognize the one dated Sept. 28, 1953?

A: Yes, that's the one I finally had to file under Rule 5. I understand that it resulted in his transfer out of the department.

Q: What were the circumstances that led you to file this complaint?

A: Well, like I said, he wasn't doing a job. He just wasn't measuring up and something had to be done about it.

Q: You felt that the time had come for the company to do something in order to give him a chance to straighten out?

A. That's right.

COMPANY SPOKESMAN: We wish to inform the arbitrator that this was the first of many incidents which culminated in the discharge. These events occurred under Article VI, Rule 5 of the contract, page 22, to which we call your attention.

Q: Will you identify this paper?

A: This is a copy of a report submitted by me to Industrial Relations dealing with Mr. Rudy.

COMPANY SPOKESMAN: We would like to introduce this as Company Exhibit 4.

(Company gives copies of Exhibit 4 to union and arbitrator)

COMPANY SPOKESMAN: The union and the company discussed this report at a meeting on Oct. 1, 1953. The union would not agree to the application of Rule 5 a, b and c, which would have resulted in a warning and a 30 day trial period in the same department. What the union did agree to was a transfer under Rule 5-d, which calls for a transfer. Under the workings of the Rule, the employee chose to transfer into department 220

UNION SPOKESMAN: We would like to cross-examine Mr. Wilcox.

COMPANY SPOKESMAN: OK, we are through with him.

UNION SPOKESMAN CROSS-EXAMINES WILCOX:

Q: Mr. Wilcox, do you recall who was steward in department 226 during 1951 and 1952?

A: That's a long time ago. Stewards come and go. I can't recall.

Q: Would you be willing to agree with us that Roswell Rudy was the steward?

A: I guess I'll have to. You fellows have the records on that.

Q: Would the fact that Rudy was a steward in your department have any influence on the way you treated him, at that time or since?

A: Of course not. We don't discriminate against any employees, even when the are stewards.

Q: How was that again?

A: I said we don't discriminate against anyone.

Q: Even when they are stewards?

A: Even when they are stewards.

Q: You criticized Mr. Rudy's production in your department. What seemed to be the trouble.

A. There just wasn't enough.

Q: Was he low man?

A: Well, maybe not low man.

Q: Next to the bottom?

A: I don't recall. It just gave us trouble.

Q: You keep records on all of this. Why didn't you bring them?

A: I didn't know you'd ask about it.

Q: You said Rudy "beefed a lot" and "sounded off to other employees". Just what do you mean?

A: Well, he'd complain that we were asking the men to do too much, even when they weren't making standard. Then he was always trying to get the men to file grievances on this and that. He seemed to want to make trouble. He kept bringing these complaints to me.

Q: Were they all his complaints, or those of other workers?

A: Both.

Q: Do you recall now that Rudy was steward in your department?

A: You reminded me of it.

Q: Do you suppose his activities had something to do with his job as steward?

A: His job was with the company, not with the union.

Q: I call your attention to Company Exhibit 3, Verbal Warnings by Foreman. Does the worker get a copy of these warnings.

A: No.

Q: How does he find out about them?

A: When we give him a verbal warning.

Q: And then you make a record of it. Why do you make a record?

A: Just in case.

Q: How do you mean?

A: If something comes up later, we know what was said.

Q: You said that these don't represent half of the warnings?

A: That's right.

Q: Well, why didn't you write the other half down?

A: Well, I don't know. They weren't so important. It takes a lot of time and I've got a job to do in the department.

UNION SPOKESMAN: That's all.

The union wants to make it clear to the arbitrator why we are exploring incidents which are so far removed in time from the case before you. The company has introduced this testimony in what seems to be an effort to justify its most recent action. Therefore, we feel impelled to question the testimony which the company presents.

(The arbitrator may wish to question the witness)

COMPANY SPOKESMAN: We would like to continue our presentation.

Mr. Rudy went to work in Department 220 on Monday, Oct. 5, 1953. The arbitrator will note under Rule 5-e that a worker is entitled to a 60 day trial period after transfer under this provision. Mr. Rudy was given his 60 days. He did not measure up.

We call your attention to Company Exhibit 2, the complaint notice dated 12-3-53. The record of Mr. Rudy in Department 220 was offered by the company for discussion at a regular meeting with the union committee on Monday, Dec. 7, 1953. The union was reluctant to discuss the case. It refused to meet its obligation under 5-e to designate departmets for transfer. The company gave Mr. Rudy the opportunity to chose. Under what we presume was the advice of the union, Rudy refused to designate any departments or to make achoice between the two designated by the company. We had no alternative but to proceed with the transfer and Mr. Rudy went to work in Department 225 on Monday, Dec. 14, 1953.

Mr. Rudy did not prove satisfactory in his new department. To establish this fact, we would like to place Mr. Joe Breuer on the stand. Mr. Breuer is foreman in department 225.

(The arbitrator swears Breuer in)

COMPANY SPOKESMAN QUESTIONS BREUER:

Q: Please state your name and occupation for the record.

A: Joe Breuer, day foreman in department 225.

Q: Mr. Breuer, will you please relate the events that took place in your department on Thursday, Feb. 11, 1954, relative to Mr. Rudy.

A: Well, Rudy and another worker were assembling on job 22. I stopped there early in the shift and found that they were using a hoist to lift parts into position which I could lift alone by myself. Naturally this use of the hoist made the work slower. I questioned them on the use of the hoist and even lifted a piece myself to show how it could be done. I pointed out that this would save time and money. Mr. Rudy seemed to resent my suggestion but I instructed them to proceed on the job without the hoist.

When I returned to the job later in the day, I found that Mr. Rudy was using the hoist. I felt that this was a deliberate effort on his part to take things easy. It was also in direct violation of my orders. Considering his record in the other department and his actions and attitude in my department, I figured we'd have to let him go.

Q: Under what rule did you consider that discharged was authorized?

A: Under Rule 5-f and Rule 8. He'd been there 60 days and hadn't worked out. That calls for discharge. Then he was insubordinate about my orders and you can fire a man for that.

Q: Mr. Arbitrator, that is a reference to Rule 8, Article VI on page 25 of the contract.

Mr. Breuer, you gave Mr. Rudy instructions on how to do a job and he failed to obey them?

A: That is correct.

Q: Would you consider that this insubordination was extreme?

A: Certainly. After all, he was on trial for 60 days. Then when I admonished him for not doing it the way I told him to, he got all hot and complained about being over-worked.

Q: On what basis do you think the company was justified in discharging the employee?

A: Well, he'd had his last chance under Rule 5 and he'd been extremely insubordinate. That comes under Rule 8. Besides, he was costing the company money by limiting his production.

Q: Had you had other troubles with Mr. Rudy before this time?

A: Yes. We had trouble with his production.

COMPANY SPOKESMAN: That's all.

UNION SPOKESMAN: We would like to examine the witness.

UNION SPOKESMAN QUESTIONS BREUER:

Q: Mr. Breuer, when Rudy came into your department, did you know about the circumstances surrounding his transfer?

A: Yes. I knew they'd had trouble with him in 220.

Q: How did you learn of the circumstances?

A: Well, we have the man's record. Then too, these things get around among the foremen. We pass the word along.

Q: What word was passed along to you?

A: Well, nothing much. Just that there had been some trouble.

Q: The company's exhibits 2 and 3 fail to include any complaints or warnings from you, except those directly before the discharge. The company is generally pretty thorough in its record keeping. How does it happen that you let Rudy go 60 days without trying to straighten him out? Or didn't he need any warnings?

A: He needed them all right.

Q: But you made no effort to help him get adjusted?

A: The work was the same as in 220. I had plenty of other things to do than play nurse to a man who has been here five years.

Q: What was the name of the man working with Rudy on the day we are discussing?

A: I believe it was Clarence Lokken.

Q: Is it true that in directing these men not to use the hoist, you talked only to Rudy?

A: No. I talked to both men.

Q: Is it true that in your remarks to Rudy you used words to this effect: "I've had my eye on you. We don't want any of your smart ways in this department"?

A: No. I didn't say that.

Q: Well, what did you say?

A: Well, I don't remember. It was quite a while ago.

Q: And yet you recall that Rudy seemed to resent your order?

A: Sure he did.

Q: How much did the pieces in question weigh?

A: About 50 pounds. Maybe a little more.

Q: Were they compact or bulky?

A: They weren't so awfully bulky. You could handle them.

Q: Is it true that when you returned to the job later in the day, Mr. Rudy was working alone?

A: Well, yes.

Q: What had become of Mr. Lokken?

A: He'd gone to the dispensary.

Q: What was his trouble?

A: He said he had gotten hurt.

Q: What was the nature of his injury?

A: Something about his finger.

Q: What about his finger?

A: I don't know. I wasn't there when it happened.

Q: Is it true that Lokken had mashed his finger while carrying out your instructions to handle pieces by hand and that he had reported the injury to the steward in your absence as provided in Section K, page 54, of the contract, and that he went to the dispensary where the injury was treated?

A: As you say, I wasn't there at the time.

Q: There are records on all this which we will get if we have to.

A: Well, something like that happened.

Q: Do you still consider that Rudy was insubordinate for using the hoist when his partner was no longer present because he had been doing the job your way?

A: I had instructed them to do it by hand.

Q: But there were two of them then.

A: Well, Rudy should have asked what to do before he disobeyed me.

Q: Were you in the department to be asked?

A. Well, not right then.

Q: Where were you?

A: I had business at other sections of the plant.

Q: When you called Rudy down for using the hoist, did you use words to this effect: "I told you not to use the damn hoist. By God, I told you to do it one way and that's the way it's going to be done. We expected trouble from you and you're not going to get away with it here. You've been here 60 days and now you've slowed down production and refused to obey orders. You're going to leave this place and not come back"?

A: No.

Q: No, what?

A: I didn't swear. I don't make a practice of using profanity.

Q: Well, what did you say?

A: I told him that he'd finished his 60 days and that he hadn't measured up and that he'd slowed down and disobeyed orders and he'd have to go.

Q: Did you give Rudy a notice of violation of Rule 5?

A: Sure.

Q: How did you happen to have it at the time?

A: I got it from the Industrial Relations office. His 60 days were up.

Q; Exactly 60 days?

A: Exactly 60 days.

Q: And then what did you do?

A: Well, because he had been extremely insubordinate, I got a notice of violation of Rule 8 and gave it to him.

Q: Is it the usual procedure for you to walk around processing disciplinary complaints?

A: In an emergency we do.

Q: In what respects was this an emergency? Why didn't you use the procedure specified in the contract under Article VI, paragraph C?

A: Well, we couldn't afford to have him stay around. It would have been bad for the other employees to have him there. Besides, the discharge was automatic under Rule 5 and Rule 8 gives us the right to discharge immediately.

Q: Do you happen to know how they did this job on the 2nd shift

A: The same way as I instructed Rudy and Lokken to do it on my shift.

<u>UNION SPOKESMAN</u>: That's all.

(The arbitrator may wish to question the witness)

COMPANY SPOKESMAN: This completes the company's presentation. We would like to sum up at this point.

We believe that the combination of exhibits and testimony offered here are sufficient to prove grounds for the discharge of Mr. Rudy.

Rule 5 is clear. It ran its course and the penalty is automatic. The testimony establishes a clear and aggrevated violation of Rule 8. The penalty under the circumstances is also automatic and immediate.

The union may attempt to question the company's dispatch in bringing this thing to a head. But Mr. Breuer pointed out that Rule 8 does provide for immediate discharge in cases of extreme insubordination. We believe that the intent of the parties is clear and fits this case.

We are confident that the arbitrator will agree that the company was justified in all respects under the existing circumstances, and showed great forbearance in not acting before it did.

COMPANY EXHIBIT 1

DEPARTMENT AND RATE RECORD - RUDY ROSWELL

1-6-49	Hired in Department 226 as Assembler
2-7-49	30 day raise
4-6-49	3 month raise
5-7-49	Seniority date
12-26-49	General Increase
7-26-50	General Increase
7-27-50	Installation of Job Evaluation System
7-26-51	General Increase
7-26-52	General Increase
9-10 to 10-1-52	Granted leave of absence: "Serious sickness in family"
7-26-52	General Increase
10-5-53	Transfer to Department 220
12-14-53	Transfer to Department 225

COMPANY EXHIBIT 2

WARNINGS AND COMPLAINTS - ROSWELL RUDY

Formal Warnings and Complaints:

10-1-50 First warning of a possible change in classification: "Talking too much. Has been warned several times".

2-6-51 Complaint report, violation of Rule 9: "The Company charges that this worker in his capacity as steward has wilfully encouraged workers in his department to limit their production". Penalty: one week's layoff without pay.

In minutes dated 2-10-51, the penalty was suspended at the request of the Union.

1-10-52 Complaint report, violation of Rule 8: "The Company charges that this employee has been insubordinate in his attitude and actions toward his foreman, questioning the legitimate instructions of supervisory personnel". Penalty: one week's layoff without pay.

Penalty was suspended at the request of the Union.

12-3-53 Notice of violation of Rule 5: "This employee was given a transfer to Dept. 220 on Monday, Oct. 5, 1953 under the application of Rule 5 of the contract. He has not met the requirements of the job during the 60 day trial period. His general performance is unsatisfactory, production is not up to standard, he questions the legitimate instructions of his supervisor and interferes with the work of other employees in the department". Penalty: transfer to another department under Rule 5.

2-11-54 Notice of violation of Rule 5: "This employee was given a transfer to department 225 on 12-14-53 under the application of Rule 5. He has not met the requirements of the job during the 60 day trial period. His general performance is not satisfactory and his attitude toward his work and supervisors leaves much to be desired". Penalty: immediate discharge under Rule 5-f.

2-11-54 Notice of violation of Rule 8: "Aggrevated refusal of employee to obey orders of supervisor". Penalty: immediate discharge under Rule 8.

COMPANY EXHIBIT 3

VERBAL WARNINGS BY FOREMAN - ROSWELL RUDY

Approximately January, 1951, employee was warned for taking too much time for investigating grievances during working hours. In his reply, employee claimed he had the right to do this.

Approximately March, 1951, employee was warned about insubordinate attitude. He was told that if it occurred again he would be given one week off without pay.

1-6-52 Employee was warned about talking with other workers on company time.

During 1953, foreman warned employee numerous times for poor work, low production and insubordinate attitude.

COMPANY EXHIBIT 4

FOREMAN'S REPORT — Roswell Rudy

Date: 9-25-53

Dept: 226

Foreman: Wilcox

Shift: 1

Rate employee as indicated, from 3 (poor) to 2 (average) to 1 (good)

Cooperation	3	2	1
Use of working time	3	2	1
Ability to get along with other workers	3	2	1
Quality of work	3	2	1

UNION PRESENTATION

UNION SPOKESMAN: If it is agreeable with the arbitrator, we would like to make a statement giving the union's conception of this case and taking issue with various statements and exhibits offered by the company. We will be using witnesses a little later on, but I believe we will save time with some direct presentation at the start.

(See if this is OK with the arbitrator)

The union's contention is that Mr. Rudy has been discharged in violation of the contract and should be reinstated with pay for all time lost. We will attempt to prove that the company has violated both the wording and the spirit of the contract.

The company has introduced the worker's entire record. We believe that most of this information has no bearing on this case. We think it was done for a purpose. That purpose is to build up in the mind of the arbitrator that here indeed is a worker who is hopeless.

We believe it is necessary to challenge the company's approach, not because we agree that the record is damaging, but because of the false impression which may be created by it.

We want to emphasize that the complaint reports dated 2-6-51 and 1-10-52 contained in Company Exhibit 2 were settled and are therefore dead issues. The 2- 6-51 case was settled at a grievance meeting with the company agreeing that the ch-arge had no basis in fact. The case dated 1-10-52 was settled in arbitration with the arbitrator granting the union's request for back pay. The company's exhibit simply says that the penalty was suspended at the request of the union. This implies a spirit of cooperation which was not noticeable at the time.

We must contest the use of verbal warnings as contained in Company Exhibit 3. A worker has no record of these and is in no position to challenge their merit. The company certainly has the right to introduce such exhibits, but we do not believe they deserve consideration in attempting to build a case against a worker. The arbitrator will note the vagueness of the dates and the statements and will contrast it with the elaborate disciplinary procedure provided in the contract.

However, we are greatful to the company for introducing Exhibits 2 and 3, in this respect. We will establish that Rudy was a steward in department 226 during 1951 and 52. Two of the formal warnings and complaints and the first three verbal warnings occurred during Rudy's term of office. Reference is made to this fact in the company's own exhibit. This contrasts with Mr. Wilcox's failure to remember who was steward at the time. We believe that the company's dis-satisfaction with Rudy began when he undertook the job of representing the workers in his department.

We would now like to discuss the circumstances leading to the discharge. We will introduce copies of two grievances as union exhibit A. There are two grievances because the case involves a sort of chain reaction, with each company action being calculated on the basis of a prior action.

(Union gives copies of Exhibit A to company and arbitrator)

The arbitrator will note that the first grievance applies to the 2nd transfer mentioned by the company. It charges that Rule 5 has been mis-applied. The union attempted to settle this case with the company, but was unsuccessful. We were preparing to certify the case to arbitration when the discharge occurred.

The second grievance applies to the discharge. Of necessity, it refers to the previous grievance. The adjustment of the second case as requested will dispose of the first case, and it is the second case which is up for your decision. We want to make sure the you understand that the union did not agree with the company's action in the second transfer.

The discharge grievance contends first, that the discharge was unjustified by the circumstances, and second, that it was not handled as provided in the contract.

The application of Rule 5 is important to this case. The rule applies to employee performance. When questions arise as to such matters, the company is required to discuss each case with the union. Management, however, makes the decisions. The union has the right to grieve.

The steps in the application of Rule 5 provide time limits and the penalties are relatively automatic.

We wish to establish two things with regard to this rule. First, paragraph g of Rule 5 provides that the time table shall be informal and that the stated trial periods are minimums. After the first transfer, the company waited exactly 60 days. Then it charged a violation of the rule and transferred the man unilaterally when the union refused to acknowledge any justification for the charge. Then, exactly 60 days later, the company again acted. This was the discharge on Feb. 11. The foremen, Mr. Breuer, was actually equipped with the notice of violation when he returned to the department that day. The alleged violation of rule 8 required a second trip to the front office. We note a certain indecent haste on the company's part, in spite of what the contract says in 5-g.

This is not the way in which these cases are usually handled.

Second, the company mis-applied the Rule from the start. There have been cases in the past in which workers and foremen did not get along. When alleged Rule 5 violations have brought these matters to the attention of the union under 5-b and it has developed that the problem is really one of personalities, the union has occassionally agreed to a transfer. But the transfer has not been disciplinary in nature nor has it been a true application of Rule 5.

To back this up, we introduce Union Exhibit B. These are exerpts from transcribed proceedings at union-management grievance meetings.

(Union gives copies of Exhibit B to company and arbitrator)

You will note in the first two discussions that the union is concerned that it is not greasing the skids for the worker involved. Unfortunately, the record for 10-1-53 is not as clear. The union makes the assumption that this is a special application of Rule 5, but the company makes no concurring statement. We did not anticipate subsequent events.

We would now like to discuss Article VI, paragraph C, page 28, of the contract. The section details the method under which discharges shall be handled. The last sentence states: "Before or at the time of discharge or lay-off of any employee for violation of the rules, the superintendent or his assistant shall take the matter up with the union committee, giving the reasons for the discharge or layoff".

In this case, the company did not follow this procedure. It fired Mr. Rudy as of the end of the shift and the union knew nothing of the matter until the steward and the worker reported it

to a committee member. The company has claimed that 5-f provides for automatic discharge and that Rule 8 allows immediate discharge in extreme cases. In our view, Section C takes precedence as a procedure governing all discharges. Rules 1 through 4 also use the words immediate, but in all cases, the matter has been brought to the attention of the union first. We can see no place for any exceptions to the procedure set up in paragraph C.

The union believes that all of this is sufficient to invalidate the company's action. However, we do not believe that the circumstances warranted the discharge either. We don't want the company to say, OK, you got us on a technicality - now we'll go back and do it right.

We would like to put Mr. Rudy on the stand.

(Arbitrator swears Rudy in)

UNION SPOKESMAN QUESTIONS RUDY:

Q: Will you state your name and previous occupation?

A: Roswell Rudy, assembler in departments 225, 220 and 226.

Q: How long have you been with the company.

A: For five years.

Q: Were you a steward in department 226 during 1951 and 1952?

A: I was.

Q: Who was the foreman at the time?

A: Mr. Wilcox. He still is the foreman.

Q: Do you believe that Mr. Wilcox knew that you were the steward?

A: He must have known. The union sends a list. Besides, a lot of grievances came up while I was steward. I argued them with him and when they were written down, my name was on them and so was his.

Q: Did Mr. Wilcox interfere with your duties as steward?

A: Not exactly. He used to gripe about it and said I spent too much time investigating cases. He seemed to be mad when we filed grievances.

Q: Why were you transferred out of department 226?

A: Wilcox and I didn't get along too well.

Q: Did you consider you were being disciplined under Rule 5?

A: No. It was supposed to be just a way of getting us apart.

Q: In the next transfer to department 220 did you consider that you were being disciplined?

A: Yes. By then, I figured they were going to give me a hard time.

Q: Will you identify this Union Exhibit C?

A: This is a record I kept of my production and department production in department 225. The company records will show the same.

Q: Why did you keep this record?

A: They'd claimed my production was poor in department 220 as one excuse for the transfer. Mr. Breuer objected to my production here today. I wanted to be ready in case anything happened.

UNION SPOKESMAN: Here is Union Exhibit C. It is a copy of Rudy's production while he was in department 225 up to the time of his discharge. The figures who that Rudy was about average in comparison with other workers on the same job.

(Union givies copies of Exhibit C to company and arb.)
(The arbitrator may wish to ask questions. So may the company)

QUESTIONING OF RUDY CONTINUES:

Q: Will you describe what happened on the day you were fired?

A: Well, Lokken and I were on job 22. We had to lift and position pieces that weighed 85 or 90 pounds. They were large and bulky. There was a hoist there and we used it. Mr. Breuer came by and objected to the use of the hoist. He lifted a piece to show us he could do it. I said that could be dangerous but he shut me up. He said he'd been watching me and that he didn't want any of what he called my smart ways in his department. Then he said to do it by hand and left.

Q: Did he speak to you, or Lokken, or both?

A: He talked right at me.

Q: What happened next?

A: About noon, Lokken mashed his finger. He went to the dispensary. I stayed on the job and began to use the hoist since Lokken was gone. Pretty soon, Breuer came by and hit the ceiling because I was using the hoist. He said he'd told me not to use the damn hoist. I said that Lokken was gone. He said he could do it alone and so could I. I said he'd done it once but I had to keep doing it. Then he said he'd expected trouble from me and I'd been there 60 days and slowed down production and now I was insubordinate. He handed me a notice of violation of Rule 5 and said I was automatically fired as of the end of the shift. He went away and then came back with a notice of violation of Rule 8 and said I was fired again.

Q: Did he have the notice of Rule 5 violation with him when he first came to you.

A: Yes. I guess he got the other one just to make sure.

Q: Why did you start using the hoist when Lokken left?

A: So I could keep up the job. Then, Lokken had been hurt and the safety rules in the contract says we should use care and judgment to protect ourselves.

UNION SPOKESMAN: We call the arbitrator's attention to the Safety Rules and Regulations, page 51, Rule 3, which states: "Employees are not required or expected to take any risks from which they cannot protect themselves by care and judgment".

We also refer the arbitrator to Article VI, paragraph A, page 28, of the contract. This states: "The general rules of safety must be observed. Failure to do so will incur the penalties as set forth in the safety code. The company will cooperate to see that these rules of safety are observed by all employees".

COMPANY SPOKESMAN QUESTIONS RUDY:

Q: Mr. Rudy, did Mr. Breuer instruct you not to use the hoist?

A: Yes, he did.

Q: And yet you did use the hoist?

A: Yes, after Lokken was hurt and left the job.

Q: You admit that you disobeyed the foreman's orders. Don't you consider that to be insubordination?

A: No, because Lokken wasn't there any more.

Q: Why didn't you follow your orders until the foreman came around and then ask him what to do?

A: Well, I didn't want to hunt him up.

Q: No. Why didn't you do as he said til he came by and then ask?

A: I thought I could do it faster and better with the hoist. Breuer said he wanted production.

Q: You claim that Mr. Breuer used profanity. Were there any witnesses?

A: No, I guess there weren't.

Q: Did you keep your temper?

A: More or less.

Q: Did you swear?

A: I may have, but there were no witnesses.

Q: You admit you disobeyed your foreman and that you used abusive language toward him. Don't you consider this to be a failure to measure up to the job under Rule 5? Don't you consider that to be insubordination?

A; Well, no, I don't.

COMPANY SPOKESMAN: That's all.

(Arbitrator may wish to question the witness)

UNION SPOKESMAN: We would like to place Clarence Lokken on the stand.

U (Arbitrator swears Lokken in)

UNION SPOKESMAN QUESTIONS LOKKEN:

Q: Will you please state your name and job?

A: Clarence Lokken, assembler, department 225, day shift.

Q: You worked with Rudy on the day he was fired?

A: Up til I got hurt.

Q: When the foreman questioned the use of the hoist, to whom did he talk?

A: He started talking to both of us but then he talked mostly to Rudy.

Q: How heavy were the pieces?

A: The specification says 85 pounds.

Q: Could you lift them by hand?

A: Two of us could, but with one it would be tough. You'd have to keep doing it and then hold them in position.

Q: How did you get hurt?

A: We were swinging a piece into position and I caught my finger.

Q: Would you say that the hazard was greater or lesser when one was trying to do the work of two?

A: It would be greater.

Q: That's all.

COMPANY SPOKESMAN QUESTIONS LOKKEN:

Q: You say the foreman spoke mostly to Rudy. How could you tell?

A: He kept saying "you".

Q: You can mean two people.

A: Yes, but he'd turned away from me.

Q: Did the foreman give you and Rudy an order to do the job by hand.

A: Yes, he did.

Q: If a man of his own free will refuses to do what he is told to do, isn't that insubordination?

A: Well, it depends on the situation.

Q: Does a refusal to obey a simple order "depend on the situation"?

A: Well, I think it was wrong.

Q: That's all.
(Arbitrator may wish to question witness)

UNION SPOKESMAN: This concludes our presentation. In summarizing our position, we would like to stress the following points.

Under methods and procedures, the company has offered no satisfactory reason for failing to abide by the procedures outlined in Article VI, paragraph C, of the contract. The company, according to the record as we have submitted it, mis-applied Rule 5. The original transfer was not disciplinary and should not have been

so interpreted and used by the company. The company used it to get a couple of jumps ahead on the road to discharge. Union Exhibit B should make clear the intent of the parties.

The company never missed a 60 day period when it came to expediting this case.

The company's foreman, Mr. Wilcox, indicated great vagueness in the matter of whether or not Rudy had been steward in his department. We question whether this apparent ignorance is possible under the circumstances. We contend that as a matter of fact the original basis for the company's action was its definite knowledge that Rudy had been an agressive steward.

The company's use of old complaint and warning notices without mentioning clearly the manner in which they were disposed of indicates the lengths to which they have gone in attempting to build a case. The same may be said for the use of verbal warnings.

On the immediate circumstances surrounding the discharge, we believe that the company has shown no grounds for its action. The foremen seemed to be out for trouble. In our opinion, Rudy showed good judgment as far as his actions go. Lokken was hurt. Paragraphs 3 on page 51 and A on page 28 place the worker under an obligation to use common sense.

The fact that the company was already with the final step at Rule 5 indicates premeditation. Apparently, Rudy was through whatever he did. The company, however, left nothing to chance, actually walking a notice of violation of Rule 8 through channels so that the worker would not be forced to leave without it. To us, this is a clear-cut case of trying to get the worker. We think the company was wrong in its reasons and the way it did it. We believe Rudy should be back in department 220 with full rights and lost pay.

COMPANY'S CLOSING STATEMENT, BY COMPANY SPOKESMAN:

The union has made a great issue of technicalities in this case. The fact remains that Mr. Rudy was transferred under Article VI, Section 5, paragraph d and that after a 60 day trial period and subsequent transfer plus an additional 60 days, the contract provide for automatic discharge. To us, automatic means just that. The union had been fully aware of the case and had been consulted under Rule 5 at each step.

The company also considers that Rule 8 permits immediate discharge. This is the exception to the rule of prior consultation. There is a reason for this. We ask the arbitrator to imagine the chaos into which our operation would sink if we were forced to permit cases of extreme insubordination to go unchallenged, with the worker constantly present in the department while the company waits upon the union for a discussion of the case.

As to the circumstances, we contend that our exhibits and testimony fully establish that the company was justified in discharging Mr. Rudy under Rule 5 or Rule 8 or both. As has been amply demonstrated, he did not measure up despite repeated trials. Furthermore, he has openly admitted that he refused to obey the the orders of his supervisor. We believe that the arbitrator will uphold our position.

UNION EXHIBIT A

COPY OF GRIEVANCE DATED 12-11-53

This worker was given a transfer from department 220 to 225 effective Monday, 12-14-53. The union contends that there is no basis for this action by the company and that it is a misapplication of Rule 5 of the contract. The union requests that this transfer be cancelled, that the worker be returned to his proper job in department 220 and that the notice of violation be stricken from his record.

/S/ Roswell Rudy

COPY OF GRIEVANCE DATED 2-15-54

This worker was discharged by the company on 2-11-54. The union contends that this discharge was unjustified by the circumstances and was improperly handled under the terms of the contract. The union requests that this worker be reinstated with full seniority and pay for all time lost and, since this discharge is related to this worker's grievance of 12-11-53, that such reinstatement be in department 220.

/S/ Roswell Rudy

UNION EXHIBIT B

MINUTES OF GRIEVANCE COMMITTEE MEETINGS
DEALING WITH SPECIAL APPLICATION OF RULE 5

6-12-52: Subject under discussion - notice of violation of Rule 5

Union: "It is agreed, then, that this worker will be offered a transfer under Rule 5 but that this is in no way a disciplinary penalty - that he is not on a trial period or anything?"

Co: "That is correct - it's just to resolve the personality problem in the department".

1-17-53: Subject under discussion - grievance charging foreman with nagging worker

Co: "Can't we adjust this case the way we did that other one last summer - by making a special application of Rule 5?"

Union: "I think we can, so long as you agree that this doesn't constitute one link in the chain of events that might lead to discharge".

Co: "That will be OK with us".

10-1-53: Subject under discussion - foreman Wilcox's report of 9-25-53 on Roswell Rudy

Co: "Then we will arrange for Rudy to transfer to 220".

Union: "OK, but we certainly aren't looking at this as a penalty under Rule 5".

Co: "What about this next case?"

COMPANY EXHIBIT C

COPY: Production Records, Roswell Rudy, department 225

Note: Since production was an issue in transfer of Rudy from department 220 to 225 (to which the union did not agree) the union requested that the worker keep his own production records in his new job.

Week Ending:	Production Units	Department Average
12-18-53	32 units	33 units
1 - 8-54	31 units	30 units
1 -15-54	35 units	37 units
1 -22-54	30 units	29 units
1 -29-54	50 units (new job)	54 units
2 - 5-54	47 units	48 units

University of Wisconsin
School for Workers

May 5, 1954

In the matter of:
Discharge of Roswell Rudy

Hearing April 28, 1954

L. R. Tripp,
Arbitrator

Award and Opinion

Facts:

Roswell Rudy has had about five years' seniority in Department 226 and was department steward during 1951 and 1952. On 9/25/53, a foreman's report was issued for this employee alleging poor cooperation, use of working time, and quality of work. On October 5, 1953 he was transferred to Department 220 after some discussion of his situation between the Company and Grievance Committee at a meeting on October 1, 1953. The circumstances and basis of this action are in dispute and will be the subject of further comment below.

In any case employee Rudy spent the following two months to 12/14/53 in Department 220. On 12/3/53, a notice of unsatisfactory performance was issued to this employee and the Company invoked rule 5 to effect a second transfer. This action was contested by the Union grievance dated 12/11/53. The employee was nonetheless transferred to Department 225 until his discharge on 2/11/54, sixty days after the second transfer.

On the basis of the testimony at the hearing the events immediately leading to his discharge on 2/11/54 may be summarized as follows: employee Rudy and another employee Clarence Lokken were doing assembly work in Department 225, lifting and placing into position pieces weighing an estimated 50 and 90 pounds. (Union testimony uncontroverted by the Company stated that specifications called for 85 pound weight). At approximately ten o'clock of the morning in question, the foreman directed the two employees to do this work by hand. Some words passed between the foreman and Rudy although the exact language is in dispute. At any rate, the two workers followed the foreman's orders for the rest of the morning. At approximately noon, however, Lokken injured a finger allegedly when

they were swinging a piece into position. Lokken thereafter went to the dispensary in accordance with the safety rules and Rudy continued at work, but returned to using the hoist when he was working alone. Later in the day, the foreman came back, handed the worker a discharge notice of unsatisfactory performance under rule 5, and charged him with refusal to obey orders in the use of the hoist. He later handed him a notice of discharge for insubordination under rule 8.

Relevant Contract Provisions:

Article VI, rules 5 and 8 of the contract are cited by the Company as justification for the discharge, on the basis of the total performance records of the employee. The union questions the applicability of rule 5 and the entire personnel history in this case and argues that the discharge was not justified under the contract provisions, either procedurally or on the merits of the case. Rule E3 of the Safety rules and K referring to First Aid are also considered relevant by the Union.

Applicability of Rule 5:

The Company points out that the measuring stick applied by Management to employees whose record indicates unsatisfactory performance is agreed in Article VI, rule 5, of the contract to follow a standard procedure. They agree to discuss each case for the purpose of selecting individuals who justly deserve a first warning. The clause goes on to state that the Management's decision is final as to those cases to receive warnings and the thirty day trial period in their regular department. Thereafter there are discussions provided but if Management determines a violation, there is a compulsory transfer to another department selected from those suggested by Management and Union. After a sixty day trial period "the Management will again discuss each case with the Union and determine whether the employee has violated the rule for a second time." Again a transfer is "compulsory", and after a third

trial period (also of sixty days) if the employee is again found by Management to be in violation of this rule, discharge is "automatic".

The Union argues however that rule 5 has not been properly invoked in this case. They submitted minutes of the grievance committee meeting of 10/1/53 when the first transfer of Rudy was discussed. The minutes show that the Union's understanding of Rudy's transfer was one of separating clashing personalities as had been done in other instances without invoking the performance disciplinary procedure. The Company did not deny this statement but neither did it give confirmation.

Under these circumstances, the arbitrator is faced with a difficult problem. If rule 5 applies, the series of disciplinary measures and ultimate discharge are automatic as determined by the Company in accordance with its disciplinary determinations and warnings. If the initial transfer, however, was one of convenience to both parties and not of unsatisfactory performance, then the same automatic features are not controlling.

The following considerations lead the arbitrator to conclude that rule 5 is not applicable under the peculiar circumstances of this case:

1. Rule 5 after all deals with "efficiency and good workmanship" and must be interpreted in the light of this intent. On this test, the entire record does not substantiate a finding of poor workmanship. Two earlier complaints had been reversed--one in the grievance procedure and one in arbitration. The foreman's report of 9/25/53 emphasized intangible elements such as cooperation and was not supported by production records. The notice of 12/3/53 of generally unsatisfactory performance in Department 220 was also unsubstantiated by either supervisory testimony or production records. And finally during the most recent employment experience in Department 225, the Union production record, uncontroverted by the Company, showed performance equal to and higher than average during some weeks.

2. Although the foreman handed Rudy a notice of violation of rule 5 on the date of his discharge, 2/11/54, he charged Rudy primarily with refusal to obey orders.

3. The grievance committee meeting minutes of 10/1/53 contain sufficient doubt as to an understanding that rule 5 was to be applied as to warrant resolving this issue against such application. If rule 5 were clearly being applied, it is possible that a discipline grievance might have been presented even then, which would have provided a basis for more consideration of production and other aspects of performance in the subsequent steps.

The arbitrator finds, therefore, that rule 5 is not applicable to this case and will, therefore, confine his consideration of the discharge to the immediate events of 2/11/54.

Applicability of Rule 8:

It is agreed in the testimony that Roswell Rudy disobeyed his foreman's orders in the use of the hoist that day. The questions at issue are (a) whether there were extenuating circumstances mainly of a health and safety nature and (b) whether his disobedience constituted extreme insubordination, warranting immediate discharge under the contract or merely a violation calling for one week's layoff without pay, the alternate penalty provided in the contract.

Not sufficient information was available to the arbitrator to make a finding that Rudy's use of the hoist when working alone was a necessary exercise of care and judgment against safety risks under rule E3. When Rudy under cross examination by Company counsel answered that his reason for using the hoist was to "keep up production", it appears that he could have carried out supervisory orders without risk, even if producing somewhat more slowly in his judgment. This judgment was disputed by Company testimony.

With respect, however, to the matter of extreme insubordination the arbitrator finds no justification in the facts of this case to consider the offense extreme in any sense. There were honest differences in judgment. There was no apparent reason why paragraph C could not have been followed in this case.

In view of the considerations set forth in the above opinion, the arbitrator hereby directs the reinstatement of employee Roswell Rudy, with retroactive pay except for the penalty of one week's lay-off without pay under rule 8. The parties themselves may determine whether he should be placed in Department 220 or Department 225, since no stipulation was made referring the previous transfer grievance to the arbitrator at this time.

Arbitration

TRAINING FOR ARBITRATION
The University of Wisconsin
School for Workers

Arbitration for Boilermakers' Officers

CLASS OUTLINE

1. Why the need for arbitration?
2. The grievance procedure and the arbitration step.
3. Typical arbitration procedure - an overview in outline form.
4. MOVIE: "Let's Arbitrate" (American Arbitration Association).
5. The agreement to arbitrate.
    a. General principles
    b. Contract clauses of class members
6. Preparing for the arbitration hearing - general.
7. The arbitration hearing - general.
8. Preparing for arbitration - actual practice case.
    a. Stipulating the issue
    b. Main points to be developed
    c. Preparing questions and briefing witnesses
    d. Preparing exhibits
    e. Preparing the opening statement
9. Practice Arbitration Hearing.
    a. Opening statement
    b. Examination, cross-examination of witnesses
    c. Concluding summary statement
10. The decision of the arbitrator
11. Union experience with the arbitration process.

August 9, 1965

GRIEVANCE FORM - FOR USE IN STEP II

INTERNATIONAL UNION Boilermakers, Shipbuilders, Forgers, etc.

Local No. 27 Date July 3, 1964

Complaint and Grievance No. 1358 Shift Day

Department FORGE Clock No. 128

Employee's Name- George Dix Seniority 8/18/59

Statement of Grievance:

I have been temporarily removed from my job as Yard Clerk and Stock Painter in the Forge Department without just cause and my work has been transferred outside the bargaining unit. I feel that I bid on this job and am entitled to retain it as long as there is work on the job, or until I am bumped according to Seniority, Ability and Competance clause in our contract by an employee within the bargaining unit. I asked to be replaced on my job and ask due consideration be granted for any loss in pay that may consequently be administered.

Signed _____
AGGRIEVED EMPLOYEE

Management Reply:

There has been a decline in the amount of work to be performed by Dix over the past five years. In the interest of efficiency and economy it is necessary for the Company to abolish this job and assign what work remains to the Yard Foreman. For this reason the grievance is denied.

Signed _____
PERSONNEL MANAGER

Arbitration

JOB DESCRIPTION

JOB TITLE: Yard Clerk and Stock Painter

EMPLOYER: Billings & Springer Co.

REPORTS TO: Yard Foreman

DEPARTMENT: Forge

DATE: November 20, 1956 (re-analysis)

ANALYST: Roger Schwenn

PRIMARY FUNCTION:

Checks incoming stock & material, marks stock, maintains inventory in yard, fills forge department orders.

JOB DETAILS:

1. Checks stock on, off freight cars during loading and unloading operations.

2. Is responsible for checking incoming equipment, signing delivery receipts, determining whether material or equipment was damaged enroute.

3. Takes phone orders from Forge Department for ingots and billets.

4. Paints SAE numbers (various colors) to indicate orders to be picked up by Floormen or Fork Lift Operator.

5. Determines nature of first shop operation called for, as follows:

   a. Sawing, shearing, cold or hot

   b. Heat cut under press or hammers.

6. Maintains yard inventory of billets and ingots, notifying foremen when stock of particular sizes runs low.

INCIDENTAL DUTIES:

1. Spot-weighs billets and ingots to check actual weights against delivery invoice weights to determine whether mill shipped proper sizes per order.

2. Lubricates and stores dies, picks up and delivers dies with hand truck.

3. Occasionally operates yard crane when regular operator not available.

4. Helps tidy yard as directed by Foreman when other work not available.

5. Performs other miscellaneous duties as may be required.

5. May on occasion operate Fork Lift Truck.

COMPANY POSITION

1. The work on the job of Yard Clerk and Stock Painter was previously performed by a supervisor before the job was established in 1951. The job was established to meet requirements of a peak period when the work load was very great, and supervisors needed to be relived of some work to free them for other responsibilities.

2. The same kind of duties are now performed by Foremen in other departments, and have never been part of unit work.

3. There has been a drastic reduction in the amount of work available in the Forge Department from 1955 on, due to a change in materials handled and a reduction in the number of forging types produced, decreasing the inventory and a reduction in the amount of necessary yard space.

4. Hours of work spent per day on major functions of painting SAE numbers, taking phone orders and maintaining inventory has dropped from approximately six in 1955 to 3 1/2 in 1964. This was verified by an examination of daily time slips filled out by the Yard Clerk and Stock Painter for the period 1955-1964 prior to the change in work assignments.

5. The work performed on this job is primarily clerical in nature, and there is no provision in the agreement that prohibits the Company from assigning such work to supervisors if desired.

6. The Management clause in the agreement specifically reserves the right of the Company to "transfer or relieve employees from duty because of lack of work, or for other legitimate business reasons, and the right to introduce new or improved production methods or facilities....." There are plenty of arbitration precedents for actions such as the one taken by the Company in the present dispute.

7. Just because a job title appears in the Agreement does not have the effect of "freezing" it in its present form.

8. The Recognition Clause of the Agreement specifically excludes clerical employees from the bargaining unit, and further, that foremen, while acting as such, do not fall within the bargaining unit.

9. The action taken was in the interests of economy and efficiency of operations.

GRIEVANCE FORM - FOR USE IN STEP II

INTERNATIONAL UNION Molders and Allied Workers' Union

Local No. 163 Date July 28, 1965

Complaint and Grievance No. 470 Shift Days

Employee's Name Soft Iron Dept. Seniority

Statement of Grievance:

On July 26, 1965 the Company's Molders reported to work but then decided it was too hot and went home. Thereupon Management sent other employees home.

The Union contends the Company violated Article VII, paragraph 1 of the Agreement in effect.

The Union demands that the Company pay three hours pay to the 15 men of the Soft Iron Department.

Signed
STEWARD/EMPLOYEE

Management Reply:

Article VII does not apply in the case of a wildcat strike provoked by conditions beyond Management's control. There was no need for the Soft Iron Department employees when no castings were being turned out. The situation falls within the exception provided in the same Article VII (1).

Signed Owen Kapper
PERSONNEL MANAGER

GRIEVANCE FORM - FOR USE IN STEP II

INTERNATIONAL UNION Molders and Allied Workers' Union

Local No. 163 Date July 29, 1965

Complaint and Grievance No. 471 Shift Day

Employee's Name Chipping Dept. Seniority

Statement of Grievance:

On July 26, 1965 the Company's Molders reported to work but then decided it was toohot and walked off the job en masse without Management's consent. Thereupon Management sent the Chippers home.

The Union contends the Company violated Article VII, paragraph 1 of the Agreement.

The Union demands that the Company pay the three hours' pay coming to the 4 Chippers involved in the action.

Signed (see below)
STEWARD/ EMPLOYEE

Management Reply:

Article VII does not apply in the case of a wildcat strike provoked by conditions beyond Management's control. There was no need for the Chippers' services when no castings were being produced. The situation falls within the exception provided in the same Article VII (1).

Signed Owen Kapper
PERSONNEL MANAGER

Harry Holmes/s

Abe Sikorski/s

Henry Bethely/s

Irving Salmon/s

July 30, 1965

Mr. Arvid Anderson, Commissioner
Wisconsin Employment Relations Board
Wisconsin Industrial Commission
Madison, Wisconsin

Dear Mr. Anderson:

Persuant to the collective agreement governing relations between Love Brothers - Giddings Company of Hartford, Wisconsin and Local #163 of the Molders and Allied Workers' Union, we hereby request use of an arbitrator selected by the WERB. If it is at all possible, we would like to schedule a hearing next week in order to dispose of the dispute as promptly as possible.

The Company and Union have agreed that the issue to be decided revolves around whether or not the Company, by sending workers home on July 26th, 1965, violated the following Article of the collective agreement:

Article VII - Report-In Pay

1. If an employee reports for work, unless previously notified not to report, he shall receive four bours' pay at his regular hourly rate or not less than four hours' work at not less than his regular hourly rate. The provisions of this paragraph shall not apply in case the inability of the Company to provide work is due to conditions beyond its control. In the event of any down time due to power failure involving more than twenty minutes of work in any one day, employees who are required to remain at work will be paid at their base rate for the time that they are unable to perform their regular duties because of said power failure.

On July 26,, 1965, the Company's molders reported to work but then decided it was too hot to work and walked off the job en masse without Management's consent. Thereupon Management sent certain other groups of other employees home. A grievance was filed on behalf of some of these employees claiming that they were entitled to report-in pay under the provisions of Article VII set forth above. Management contends that the paragraph does not apply because the situation comes within the exception set forth in the paragraph.

We respectfully ask for your prompt action on the above request.

Sincerely,

Love Brothers - Giddings Company

Molders Local Number 163

LOCAL #163 - Molders & Allied Workers Union

LIST OF FIFTEEN AGGRIEVED EMPLOYEES OF THE SOFT IRON DEPARTMENT

Peter Herold/s

DePardo Philip/s

Don Leakway/s

Benjamin Jones/s

Duncan Pelmear/s

Admiral Nesbary/s

Ralph Dean Miller/s

Melvin L. Carter/s

Jim Gurdess/s

George E. Roper/s

Charles Morehead/s

James V. Vittorio/s

Dan Jacobucci/s

Ben Hall/s

Earl Hall/s

UNIVERSITY OF WISCONSIN
SCHOOL FOR WORKERS

ARBITRATION

1. Purposes of arbitration

   - to resolve a dispute short of a strike or lockout
   - a safety valve, beyond the regular grievance procedure
   - to resolve a situation that needs a decision
   - to test the meaning of the contract
   - face-saving

2. The basis of the arbitrator's decision

   - not what he thinks is fair, or right, or wrong; rather what he thinks the contract says in relation to the circumstances presented to him in the hearing; past practice may also be important.

   - the jurisdiction of the arbitrator is usually defined in the contract; the matters on which he may rule, and the nature of his ruling - meaning intent of parties, application, interpretation. Usually excluded are changes, additions, deletions or modifications of the contract.

3. Types of arbitration

   - ad hoc, single: one impartial individual, hired by the parties for a particular case or series of cases.

   - permanent, single: one impartial individual selected by the parties and usually named in the contract who will hear all cases for the duration of the agreement.

   - arbitration board, ad hoc or permanent: each party appoints one or two representatives to board, board in turn selects impartial chairman; decision is by majority vote of board.

4. Selection of arbitrator

   - named in contract
   - by agreement between parties
   - failing agreement, or by agreement, on application to the Federal Mediation and Conciliation Service, the Wisconsin Employment Relations Board, the American Arbitration Association, or some professional individual, usually a lawyer or professor or judge.

5. Procedures and methods

   - formal and informal systems

   - stipulations: may their preparation help to clarify the issue, perhaps produce a solution short of arbitration, assure a ruling on the particular dispute? or will it tend to freeze the case, reduce flexibility?

   - briefs: read at beginning of hearing, used as basis for presenting case even when not submitted; a matter of practice and choice.

   - opening statement: what it's all about, what you're going to show.

- Who goes first: not necessarily the party requesting arbitration- rather, the prosecution, the party which took the initiative in the dispute: as in a discharge, the company; in a request for an increase in a piece rate, the union.

- Direct presentation: by the spokesman (men); telling things to the arbitrator, possibly introducing some exhibits - but where you have an able witness with expert or first-hand information, his testimony will usually be more effective.

- The use of exhibits: copies of contract, grievance, transcripts of earlier meetings, pictures of the job, production records, check stubs, etc.

- Witnesses: examined (questioned) by their side, then subject to cross-examination by the other side, with the arbitrator often asking questio May also involve re-examination and re-cross-examination. Exhibits are often introduced through witnesses and explained by them.

- Summation: summary of major points made in direct presentation, throug witnesses and exhibits, with counter arguments to what other side has presented: should be relatively brief, should include specific reference to decision wanted from arbitrator.

- Post-hearing briefs: one side or the other may request permission to file post-hearing briefs: should not include new material unless by mutual agreement where facts were not available at hearing. May be use to stall, delaying a decision, as deadlines for filing are extended.

6. Follow-up, after receipt of award

- whatever the award, should be viewed as to manner in which it can be used to build the union; this a matter of how it is presented to the individual and the membership.

- see that terms of award are carried out, and that situation does not arise again; company may be resentful, attempt retaliation in same or other area.

- enforcement: if arbitrator did not exceed jurisdiction, did not engage in fraud, corruption or other misconduct, decision is enforceable in court. Will not be set aside for errors in judgment as to law and fac

- award should be considered in relation to application to other grievances, future changes in the contract.

7. Arbitration clauses

- wording of clause most important: what may be arbitrated, jurisdiction of arbitrator, limitations on his power of decision, question of whether decision final and binding or resort to strike, questions of time limits on getting case to arbitration and on arbitrator in rendering award, importance of consistency in contract, all are factor which must be considered.

SCHOOL FOR WORKERS
UNIVERSITY OF WISCONSIN

ARBITRATION

PREPARATION OF THE CASE

Examine what took place at the earlier stages of the grievance procedure.
- what have been the company's main arguments
- what have been the union's main arguments
- what can the union exploit from the company's early presentation
- what might the company take advantage of from the union's presentation
- what approach will the company probably take
  - as indicated by previous experience in arbitration
  - as indicated by the early stages of the procedure
- what witnesses will the union need
- what witnesses will the company probably use
- who will probably be in charge of the company's presentation
- what exhibits will the union need
  - grievance
  - letters
  - contract
  - transcripts of earlier meetings
  - technical and statistical information
  - other possible exhibits (pictures, materials, records, etc.)

Check for precedents and past-practice
- settled grievances of a similar nature
- arbitration awards, local and general
- past practice, the generally accepted way of doing things which has been accepted by both parties, at least tacitly, without regard to what the contract or company rules may provide

Prepare presentation
- opening remarks; what the union will seek to establish
- direct testimony; remarks by union representative
- witnesses; reinforcing the union's contention by developing points through witnesses
- preparing questions for witnesses
- drilling union witnesses on prepared testimony
- attempt to prepare witnesses for cross examination by company
- attempt to prepare for cross examination of company's witnesses

Line up exhibits
- prepare copies for the union, company and arbitrator
- decide when and where they will be introduced
- number accordingly

PRESENTATION OF THE CASE

(Where the company has taken the initiative, as in a discharge, it is adviseable for the company to present its case first. Where the union has taken the initiative, as in an effort to raise rates, the union will probably present its case first.)

While the company is presenting its case
- take notes on company's opening remarks, direct testimony and statements of witnesses
- prepare to cross examine company witnesses
- consider the possibility of calling certain company representatives as union witnesses; may catch them off balance

The union's case
- follow a logical sequence
  - --the circumstances
  - --the contention: facts, witnesses, exhibits
  - --the conclusion: summation of case
- amend and modify or amplify prepared presentation as required in light of company's presentation
- use care in deal-ing with company representatives and witnesses
- have consideration for the arbitrator as a person
  - --maintain composure in spite of provocation
  - --have presentation well organized
  - --see that exhibits are clear and fit into presentation
  - --indicate respect, BUT NO SOFT SOAP.
- summation
  - --brief and well organized
  - --hit the main points

It is possible that one party, or both, may request the right to file briefs. If one so requests, the other party must decide whether it is important to do likewise, or whether the case can stand as presented in the hearing. Occasionally, the parties will request the privilege of replying to each other's brief. This often results in considerable delay in gaining a decision.

APPEARANCES FOR THE UNION

Chairman

Mr. George S. Hagglund - District Representative, Molders and Allied Workers' Union, AFL-CIO

Witnesses (in order of their appearance)

Mr. James Gross, President, Molders & Allied Workers Local Union #163

Mr. Edward Egielski, Chipping Department Steward, Local #163

Mr. Robert Slaughter, Grievance Committeeman, Soft Iron Department, Local #163

Mr.Charles Morehead, Soft Iron Department Steward, Local #163

2/52 News

University of Wisconsin
School for Workers

Jews - Finish

Fear - No Procedure - Needs their Explanation
Contract
Union Strength
Confidence in Steward
Law

PREPARING THE CASE

1. Questioning the Worker

- Worker's name, department, shift, clock number, job, rate, seniority, address, phone number.

- Are there other workers involved? Names?

- Name of foreman or immediate supervisor, plus names of other management people who may be involved.

- What are the circumstances: what happened, or failed to happen?
  - what did the company do? (are there witnesses, if needed?)
  - what did the company fail to do? (are there witnesses, if needed?)
  - what did the company say, who said it, and are there witnesses?

- When did it happen?
  - date, shift and hour (if needed)

- What does the worker say about his record?
  - production (quantity)
  - quality
  - any record of discipline
  - attendance record
  - attitude (has the company made this an issue in the past?)
  - does the worker have other grievances filed at this time, or has he filed grievances in the past?
  - union activity: is the worker known to be active in the union?

Writing Records

For use of Settlements

Stewards Meetings
1) Union Leaders
2) U-W
3) Films

2. Information from Other Sources

- What section(s) of the contract apply?

- Should I check with the committee on whether there are or have been similar cases?

- Should I check with other stewards and/or committeemen on procedure.

- Should I check with other workers? (same shift, other shifts, other departments)

- Should I look at the job or the materials or the working conditions?

- Should I get the worker to keep any records (such as production, time spent waiting on materials, time spent in washroom, number of times supervisor talked to him, etc.)?

- Should I ask the worker to provide back check stubs?

- Should I obtain any records or statements from the company?
  - in order to see if there is a case
  - should I do this before talking to the company, or wait for the first meeting on the case?

Files
Grievances
Supp. Agreements
Arbitration
Special Plans
Pension
Negotiation Notes

3. Preparing Case for Argument - Steward uses information obtained from his investigation as basis for notes used in presenting case to company.

UNION EXAMINATION OF WITNESSES - Appearance Number one

Local #163 President

Main Points to be brought out:

1. That Molders were not disciplined or punished in any way for walking out.

2. That work was available for both Chippers and Soft Iron Dept. employees on Monday, Tuesday, Wednesday and Thursday.

3. That weather was warm on Monday (not an important point), as well as humid.

DIRECT QUESTIONS:

1. Your name?

2. Position with Union?

   a. How long have you been President?

3. Position with Company?

   a. How long have you held this job?

   b. What other positions have you held with Company?

   c. How many years all told in foundry business?

4. Tell us, in your own words, what happened on July 26th morning?

   a. Did Company take any action against the Molders?

   b. Did the Company ever indicate that they were planning to discipline the Molders?

   c. Does the Union condone the action taken by the Molders on 7/26?

5. Was there work available on Monday, July 26th, that aggrieved employees could have performed to fill in the remaining three hours necessary to meet four hour call-in provision (ARTICLE VII (1))?

   a. Why is it possible that other employees can work while Molders are not working, in your opinion?

6. What kind of weather were we experiencing here in Hartford, Wisconsin on July 26th, at 6:00 a.m.

   a. Was it the kind of day that looked like it would get even hotter later in the day?

UNION EXAMINATION OF WITNESSES - Appearance Number two

Steward For Chippers (four man grievance)

Main Points to be brought out:

1. That chipping work, and related duties, was available in sufficient amounts to keep the men occupied for four hours on Monday morning.

2. That other men worked on Tuesday, Wednesday and Thursday at chipping in other departments, and they could just as well have been employed as other men.

DIRECT QUESTIONS:

1. Your name?

2. Position with Union?

   a. How long have you been Steward in this Department?

   b. How long have you worked in this Department?

3. Position with Company?

   a. How long have you held this job?

   b. What other jobs have you held with the Company?

4. What does chipping work normally involve, in your own words?

   a. Under normal conditions, where does molding operation fit into your operation?

   b. How long after the Molders finish with the castings does it take for your department to begin working on them?

   c. On a Monday morning, for example, do you work with castings produced and poured on the same day?

   d. Do you ever work with castings poured on that very day?

5. Were the Molders ahead of, or behind, or about even in terms of production of castings?

   a. Have you been working overtime lately?

   b. Why?

6. Were other Chippers employed on Tuesday, Wednesday and Thursday of the week of the walkout?

   a. Was work available for your group on the morning of the 26th?

7. Did you process the grievance for the four Chippers involved in the grievance?

UNION EXAMINATION OF WITNESSES - Appearance Number three

Grievance Committeeman employed in Soft Iron Dept. (15-man grievance)

Main Points to be brought out:

1. That there was considerable work left over from Friday to keep men in department employed for four hours on Monday morning.

2. That men actually performed this work on Tuesday, Wednesday and Thursday for a total of 15 hours.

3. A general picture of the relationship between heating, mold making, pouring, cooling and finishing work.

DIRECT QUESTIONS:

1. Your name?

2. Position with Union?

   a. How long have you held this position?

   b. Have you ever been Steward in the Soft Iron Dept.?

3. What is your position with the Company?

   a. How long have you held it?

   b. What other jobs have you held with the Company?

   c. How long have you worked with the Company?

4. Was there work available to do on Monday morning?

   a. What time were you sent home Monday morning?

   b. When did you come back to work?

   c. What did you do when you were called back to work?

   d. Was that work available on Monday morning when you left?

   e. How long did you work during the week of July 26th, and how many hours each day?

5. Will you explain to the arbitrator, in general terms, how a casting is made and processed, from heating to shipping?

   a. How long after the molders finish with a casting does it take for the Soft Iron Department to begin work on it, generally speaking?

   b. When do the molders generally finish with a casting before the Soft Iron Department gets it, in terms of Monday work?

UNION EXAMINATION OF WITNESSES - Appearance Number Four

Shop Steward for Soft Iron Dept. (15-man grievance)

Main Points to be brought out:

1. The nature of work available that does not tie directly to Molders' production of the same day (grinding, chipping, clean-up, trucking, inspecting, etc.)

2. That Steward handled grievance for fifteen men.

3. That work was available to employ men for additional three hours on Monday morning.

DIRECT QUESTIONS:

1. Your name?

2. Position with Union?

   a. How long have you been a Steward in the Department?

3. What action did the Company take that the men in your department objected to?

4. Explain to the arbitrator the nature of the work performed in the soft iron department.

   a. How big are the castings that you normally work with?

   b. How long do they take to cool, generally speaking?

   c. What pouring run does the Soft Iron Department normally work on Monday mornings?

5. Have the Molders been running ahead of the Soft Iron Department recently?

   a. Has the Soft Iron Department been working overtime lately?

6. Did you handle the grievance for the aggrieved men in your department?

   a. Who signed the grievance?

   b. Who signed it later?

7. Was there work available for the men to perform on Monday morning?

   a. When did they actually do this work?

   b. Could they have performed it on Monday?

UNION POSITION

1. While the Union does not condone the action taken by the Molders, the action of the Company sending the other employees home was, in effect, a penalty placed upon those employees for the action taken by the Molders. Article VII is clear - it provides that the Company work for the three hours claimed, since chipping work was available.

2. Although Molders did not work on Tuesday, Wednesday or Thursday of the same work week, all other employees worked for approximately five hours on each of those days.

3. Thus, if work was available on the remaining days of the week despite the fact that the Molders did not work, then there obviously was a sufficient amount of work available on the day on which three hours' pay is claimed.

4. The Molders were not penalized for going out on an unauthorized strike; therefore it is unjust to penalize another group of employees who had no control over their actions on the day in question.

5. While it is true that the Chippers did not work on Tuesday, Wednesday or Thursday of the week in question, other employees whose work was equally dependent upon castings did work. Chipping was available for all fifteen men, and it could have been done on Monday, just as well as on Tuesday, Wednesday and Thursday.

ARBITRATION COURSE (24 hours)

I. HISTORICAL BACKGROUND - GOALS OF THE LABOR MOVEMENT

A - Recognition
B - Economic Aims and Working Conditions
Questions: What is a worker worth? What he or she produces?
How do you measure the value of the production?
What the worker and family need?
How do you measure that?
How do you go about getting it? Strike?
Compulsory Arbitration? Buy into the company?
What else?
C - Arbitration
D - What next?

II. AGENCIES CONDUCTING ARBITRATION

A - Federal
B - State
C - Umpireships
D - American Arbitration Association
1 - Straight AAA
2 - AAA in the alternative
E - Individual Arbitrator or Board of Arbitration?
F - The Cost of Arbitration

III. THE GRIEVANCE PROCEDURE

A - Steps
1 - Steward and Foremen
a. Investigate the facts
b. Attempts to settle
c. Writing up the grievance - Check the contract
2 - Chief Steward and Head Foreman
3 - Grievance Committee (or Business Agent or International Representative) and Upper Level Management (attempts to settle)
B - Arbitration
1 - Definition
2 - Is Arbitration a part of the grievance procedure?
3 - Which grievances should be Arbitrated?
(Statesman or Stooge?)
a. Interest of the workers
b. Interest of the union
c. Effect of the Landrum-Griffin Act
d. Interest of the public
e. Interest of the stockholders

IV. ARBITRATION

A - The Demand
- 1 - Function
- 2 - Demand vs. submission
- 3 - Initiative with management
- 4 - A management view of management rights and arbitration

B - Choosing the Arbitrator
- 1 - Check the opinions, not the awards
- 2 - Judge? Inquisitor? or Messiah?

C - Who should present the case?

D - Arbitrability
- 1 - Effect of the Contract
  - a. By its Terms
  - b. As interpreted by prior awards
- 2 - Effect of the grievance procedure

  Question: Should a strike to achieve an arbitrable objective result in a loss of the right to arbitrate?

E - Framing the Issue
- 1 - Effect of:
  - a. Grievance
  - b. Second and Third Step Answers
- 2 - Effect on:
  - a. Arbitrator
  - b. The presentation of the case
- 3 - But what if there is no agreement?

F - Presenting the Case
- 1 - The theory of the case
- 2 - Burden of proof ("management's rights" clause)
  - a. Where there is a "just cause" clause
  - b. All other cases
- 3 - Opening statements
- 4 - Presenting the evidence
  - a. By witnesses
    - 1) Direct exam
    - 2) Cross exam
    - 3) Redirect and recross
  - b. By documents
  - c. Objections
- 5 - Closing statement
- 6 - Briefs
- 7 - Language and Logic

G - Time Study and Job Evaluation Cases

H - The Award
- 1 - Enforcement
- 2 - Setting it aside

V. "ARBITRATION IN ACTION" CRITIQUE

Note: Each session one person will argue the company case and one the union case from a fact situation and contract clause given out a week in advance. The presentation should be in the form of a final argument and should take from ten to fifteen minutes each. Members of the class will act as a three-man Board of Arbitration and will make an award on the spot.

Arbitration

TRAINING FOR ARBITRATION
The University of Wisconsin
School for Workers

POINTERS FOR LOSING AN ARBITRATION CASE

1. Take a case to arbitration because the involved employees will raise a fuss if you don't.

2. Hire an attorney to represent you at the hearing and then assume that the union officers don't have to do any more work.

3. Start preparing for the arbitration hearing the evening before the hearing is scheduled.

4. Let the company stipulate the issue before the arbitrator.

5. Assume that the party that raises the most objections and makes the most noise is making the best impression on the arbitrator.

6. Let the other side harass and badger the Union witnesses.

7. Have the union witnesses read their answers to questions off a sheet of paper.

8. Try to develop the union's main points by questions addressed at witnesses or company officials called to the hearing by the company.

9. Refuse to give copies of union exhibits to the company.

10. Where the grievance is specific about contract violations, try to formulate new contract violations not specified earlier.

11. Don't tell the union witnesses what questions you are going to ask until they are on the witness stand.

12. If your international representative or others charged with preparing the case ask for material, don't send it to them until the last minute, or don't send it at all.

13. If you don't have a specific contract violation to argue, contend that the company discriminated against the aggrieved.

14. When preparing for the arbitration, don't look back at past precedents, previous grievance settlements, or previous arbitration decisions involving similar issues.

15. Postpone the arbitration hearing in hopes the company will settle.

16. Don't ask the company for involved records or information because it will tip the hand of the union.

17. When checking on proposed arbitrators, don't investigate their backgrounds or earlier decisions in similar cases.

18. Forget that you are directing your arguments at the arbitrator.

The University of Wisconsin
University Extension
School for Workers

Planning and Preparation for Arbitration

OUTLINE

1. Union Liability and Rights in Processing Grievances

   - Recent Supreme Court Decision
   - Points of Law Relating to the Grievance Procedure

2. The Contract - Grievance Procedures

   - Scope of the Procedure - what is a grievance?
   - Who can Present Grievances
   - Sample contract language - good and bad points

3. The Process of Arbitration

   - Definition
   - The Agreement to Arbitrate
   - Costs and time involved in arbitration

4. Preparing for Arbitration

   - Procedure
   - Structure of the Arbitration Hearing

5. Movie: Let's Arbitrate (American Arbitration Association).

6. Duties of a grievance officer (time permitting)

November 10, 1967

Article III - Grievance & Arbitration Procedure

Section 3.1

Consolidated Local No. 889 shall elect from its membership a Union Bargaining Committee of not to exceed eight employees who, together with the President and Vice President of the Union, shall serve as the negotiating committee of the Union, and whose members shall participate in the processing of grievances to the extent set forth in this Article.

Section 3.2

Consolidated Local No. 889 shall elect Stewards, who shall participate in the processing of grievances, to the extent set forth in this Article. The said Stewards shall be assigned to represent a department or other suitable group of employees, and the number of Stewards shall not exceed seventeen.

Section 3.3

The Union shall notify the Company promptly of the names and assignments of the foregoing representatives, and of any changes therein which may occur during the life of this Agreement.

Section 3.4

For purposes of this Agreement the term "grievance" means any difference or dispute between the Company and the Union concerning the meaning or application of the provisions of this Agreement.

Section 3.5

Grievances shall be waived unless taken up for adjustment within three working days of the occurrence of the alleged violation of the contract on which such grievance is based.

Section 3.6

The Procedure for handling grievances shall be as follows:

It is recommended that the employee discuss the grievance informally with his immediate supervisor and he may, if he desires, be assisted in such discussion by his Steward.

Step I

If the employee desires that the grievance be processed further, the grievance must be reduced to writing on a form mutually agreed upon by the Company and the Union, dated and signed by both the employee and his Steward and be filed with his supervisor within two working days after the initial informal discussion. The supervisor shall arrange for a discussion with the employee and his Steward as soon as practicable after the date of filing and shall answer the grievance in writing within five working days after the date of filing (Working days, as used in this Article, mean calendar

days, exclusive of Sundays and Holidays. Saturdays shall also be excluded if the plant or mill is working a 40-hour week.)

Step II

An appeal from the answer in Step I may be taken by filing the same in writing on the grievance form signed by the employee and his Bargaining Committee, with the Mill Superintendent (in the case of Maintenance and Power Plant employees, the Chief Engineer; in the case of the Finishing [illegible] Superintendent; in the case of Laborat[illegible] Director of Research and Development) within two [illegible] after receipt of Step I answer. The appropriate Company representative (as above defined) shall arrange for a discussion of the grievance between himself, the employee and the Bargaining Committeeman. Such discussion shall be held as soon as practicable after the date of submission to Step II and the grievance shall be answered in writing within five working days after the date of filing in this Step II.

Step III

An appeal from the answer in Step II may be taken by filing the same in writing on the grievance form, signed by the employee and the President of the Local Union, with the Production Manager, within five working days after receipt of the Step II answer. The said Production Manager shall arrange for a discussion of the grievance between himself, the employee, the President of the Local Union and the Committeeman from the department involved. Such discussion shall be held as soon as practicable after the date of submission to Step III and the grievance shall be answered in writing within five working days after the date of filing in this Step III.

Step IV

An appeal from the answer in Step III may be taken by filing the same in writing on the grievance form signed by the employee and the President of the Local Union, with the Industrial Relations Manager, within ten working days after receipt of the Step III answer. The Industrial Relations Manager shall arrange for a discussion of the grievance between himself and/or such other Company representatives as he may select, and such representatives as the Union may select. Such discussion shall be held as soon as practicable after the day of submission to Step IV and the grievance shall be answered in writing within ten working days after the date of filing in this Step IV.

Step V

It is the agreed purpose to reach a prompt solution to all grievances through the cooperative efforts of the Company and the Union; however, in cases where it is impossible to effect a settlement of any grievance involving the interpretation or application of the provisions of this Agreement by these means, the grievance shall be referred to

BEST COPY AVAILABLE

arbitration if written request is made by the Company or the Union within 10 days after the date of the answer in the fourth step.

(a) Notice of Arbitration: Either party desiring to arbitrate any matter in dispute shall notify the other in writing, and the failure of either party to appoint its Arbitrator within ten (10) working days after the sending or the receipt of such notice, as the case may be, shall forfeit its case if the matter in dispute is arbitrable under the terms and provisions of this Labor Agreement. When any matter has been thus submitted, Arbitration shall proceed as follows;

(b) Selection of Arbitration Board: An Arbitration Board shall be organized as promptly as possible consisting of three (3) persons, one (1) to be chosen by the Company, one (1) by the Union, and the two (2) thus chosen shall meet daily to select a third (3rd), who shall be impartial and a disinterested person. If the Arbitrators chosen by the Union and Company are unable to select a third (3rd) Arbitrator within ten (10) days, then the third (3rd) Arbitrator shall be chosen by the Federal Mediation and Conciliation Service.

(c) Powers of the Arbitration Board: It is understood that the function of the Arbitration Board shall be to interpret and apply this Labor Agreement, and that the Board shall have no power to extend the duration thereof, nor to add terms or provisions thereto, no to arbitrate a dispute concerning a general wage adjustment, no to enlarge its own jurisdiction except upon mutual written consent of the Company and the Union.

(d) Arbitration Board Decision Conclusive: The decisions of the Arbitration Board concerning any matter properly arising out of this Labor Agreement and referred to the Board pursuant to the provisions hereof shall be final and conclusive upon the employees, the Union and the Company.

(e) Arbitration Expense: Each party shall bear the expense of preparing and presenting its own case and the expense of its Arbitrator. The expense of the third (3rd) Arbitrator and incidental expenses mutually agreed to in advance shall be borne equally by the parties to this Labor Agreement.

Section 3.7

Any grievance not appealed to the next succeeding step in writing and within the time limits specified will be considered settled on the basis of the Company's last answer and shall not be eligible for further appeal. The parties may, in any individual case, by mutual agreement, extend the time limits in any step.

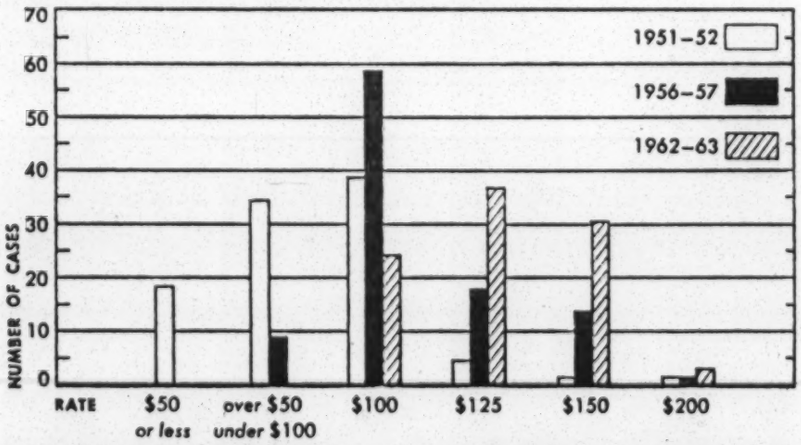
ARBITRATION COSTS, AMOUNTS OF TIME INVOLVED

A frequently heard complaint states, in effect, that the cost of arbitration to a local union has reached the point where it becomes difficult if not impossible for a local union to resort to it often. In addition, Local Union officers often complain that too much time elapses between the filing of a grievance and the arbitrator's decision. Robben Fleming, in a recently published book titled The Labor Arbitration Process, (University of Illinois Press, 1965), studied both of these problems and made the following findings:

COSTS RELATED TO ARBITRATION

Charts I and II show per diem rates and total fees of arbitrators. Chart I indicates that in 1951-52 over half of the arbitrators were charging less than $100 per day. Practically all of the others were listed at an even $100. In a relatively few cases the rate was a bit higher than $100.

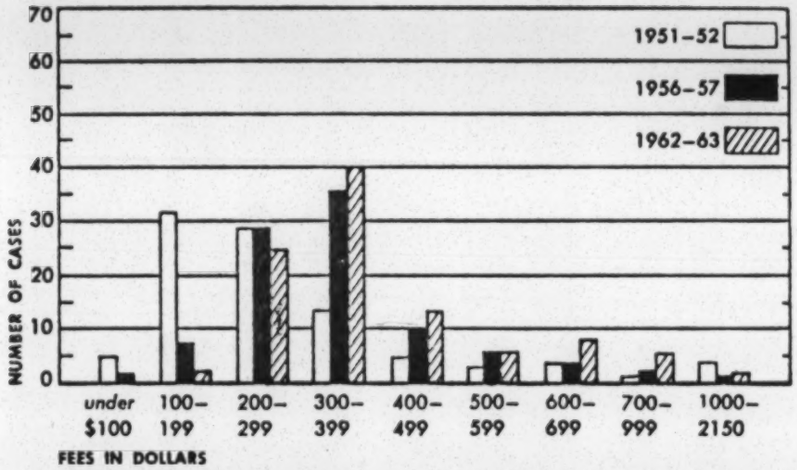
CHART I. *Arbitrator's per diem hearing rates* [a]



[a] Selected years, 1951–63. Discharge cases. All information taken from Federal Mediation and Conciliation Service files. Each year's sample included 98 cases.

In contrast, in 1956-57 less than 10 per cent of the arbitrators charged less than $100 per day. Approximately 58 per cent had a per diem rate of $100, almost 18 per cent charged $125

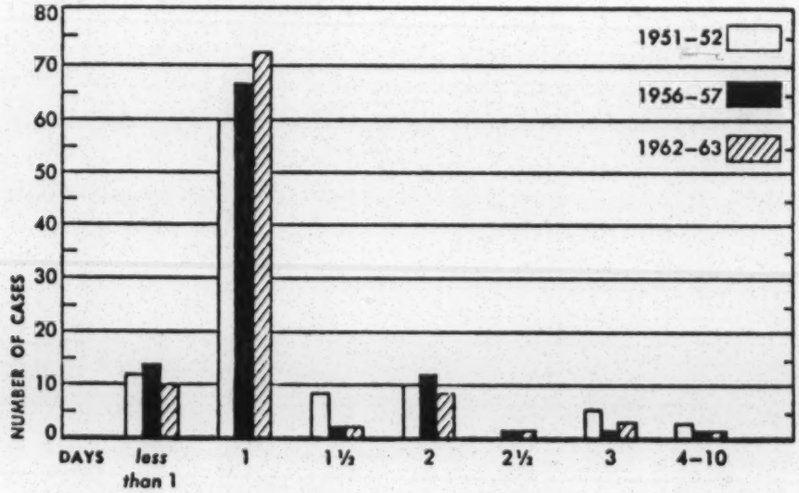
CHART II. *Arbitrator's total fees* [a]



[a] Selected years, 1951–63. Discharge cases. All information taken from Federal Mediation and Conciliation Service files. Each year's sample included 98 cases.

The fact that the total fee did not rise as fast as the per diem fee would suggest that arbitrators cut back on study days at the same time that they raised per diem fees. Since this appears to be inconsistent with the study day chart which follows, a logical explanation may be that the arbitrators with the higher per diem fees charged fewer study days.

CHART III. *Length of hearing* [a]

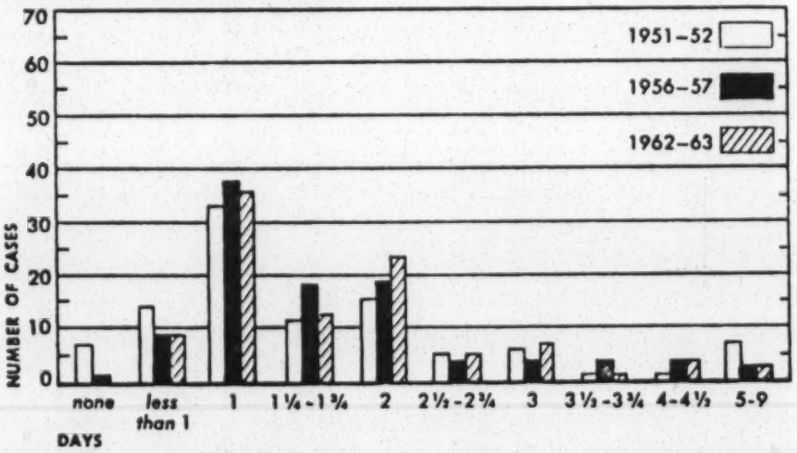


[a] Selected years, 1951–63. Discharge cases. All information taken from Federal Mediation and Conciliation Service files. Each year's sample included 98 cases.

If arbitrators are padding their fees this would be more likely to appear on study days than hearing days, for the former are not readily ascertainable by the parties. Our sample of study days is shown on Chart IV. It shows that there has been some upward movement since 1951. In that year about 20 per cent of the cases were decided in less than a day of study time, while in 1956 the figure was 9 per cent, and in 1963 it was only 8 per cent. The number of cases in all three periods requiring one day of study remained relatively the same. In those cases requiring more than one day, but less than two, 1951 and 1963 are not far apart, but 1956 climbed above both. The number of cases, however, is not significant and may well be accounted for by the small size of the sample. Cases requiring two days of study have shown a steady upward trend from 1951 to 1963, although once again the movement is slight. The remaining data simply demonstrates that few cases require more than two days of study. The FMCS tabulation for *all* cases in 1962 showed average study days of 1.84. Our tabulation for discharge cases in 1962-63 was about an average of 1.75 study days.

Conclusions from this data are tentative, but they would seem to indicate that there is a drift away from less than a day of study for the decision in any case, and that there is a slight upward drift in the number of days, up to two, which are charged for preparing the decision. Beyond two days there is no discernible trend.

CHART IV. *Study days charged* [a]



[a] Selected years, 1951–63. Discharge cases. All information taken from Federal Mediation and Conciliation Service files. Each year's sample included 98 cases.

LAWYERS' FEES

The best sources of arbitration statistics are the files of the two major appointing agencies, the American Arbitration Association and the Federal Mediation and Conciliation Service. Unfortunately, in neither case do the files contain any information about fees which lawyers charge their labor and management clients. Nor were we able to locate any useful information in the hands of the bar associations. We therefore undertook our own survey. The accuracy of the results can be debated, hence we offer them only after a full explanation of how they were obtained.

We were not interested in identifying particular practitioners, but we did want to know whether counsel represented companies or unions, and the geographic area of his practice. Our theory in both of these situations was, of course, that there might be a differential of work. In large firms where hourly rates are used the rates differ according to whether a senior or junior man works on the case. In that situation we asked them to furnish us with an average hourly rate which would take into consideration differing hourly rates.

To no one's surprise, the first clear conclusion which one can draw from the survey is that management lawyers are better paid than are union lawyers. Hourly charges by union counsel showed up as follows:

UNION LAWYERS' HOURLY RATES

Fee	*Number Charging*	*Per Cent*
$12.50 to $15.00	3	6
$20.00 to $24.00	16	32
$25.00 to $29.00	19	38
$30.00 to $34.00	6	12
$35.00 to $39.00	5	10
$40.00 to $45.00	1	2
	50	100

The average fee of the union lawyer is $25 per hour. The median fee is in the $25 range, and the largest number of union lawyers charge in the range of $25 to $29 per hour. (Two lawyers indicated that they represent both companies and unions, and they are therefore included in both lists.)

The fee structure for company attorneys looks quite different. It shows:

COMPANY LAWYERS' HOURLY RATES

Fee	*Number Charging*	*Per Cent*
$15.00	1	1
$20.00 to $24.00	5	4
$25.00 to $29.00	21	18
$30.00 to $34.00	25	22
$35.00 to $39.00	28	25
$40.00 to $49.00	19	17
$50.00 and up	15	13
	114	100

The average fee of the company lawyer is $36 per hour. The median fee is in the range of $35 to $39, and the largest number of lawyers also charge fees in this range. Nearly a third of the company lawyers charge more than $40 per hour, the highest reported fee being $75 per hour.

UNION LAWYERS' TOTAL FEES

Amount	*Number Charging*	*Per Cent*
Under $200	18	31
$200–$299	10	17
$300–$399	12	20
$400–$499	10	17
$500–$599	4	7
$600–$749	2	3
$750–$1,000	3	5
	59	100

From these figures it is clear that almost one-third of the union lawyers charge less than $200 for the average case. The average total fee for the union lawyers is $315.

COMPANY LAWYERS' TOTAL FEES

Amount	*Number Charging*	*Per Cent*
Under $200	8	7
$200–$299	11	9
$300–$399	17	15
$400–$499	11	9
$500–$599	12	10
$600–$749	15	13
$750–$1,000	27	23
$1,000 and over	16	14
	117	100

A breakdown of total fees by size of cities shows the following comparison for union and company lawyers:

TOTAL FEES FOR AVERAGE ONE-DAY HEARING

Size of City	*Average Union Lawyer*	*Average Company Lawyer*
Small (Under 500,000)	$273	$491
Medium (500,000 to 1,000,000)	$297	$639
Large (Over 1,000,000)	$382	$890

The average company lawyer in the large city makes 39 per cent more than his counterpart in the medium-sized city, and 81 per cent more than his colleague in the small city. The range on the union side is much smaller. The big city union lawyer gets 29 per cent more than his counterpart in the medium-sized city, and 40 per cent more than the small city attorney.

A court reporter can apparently take about fifty pages per hour in the course of a hearing. Travel expenses would, of course, vary with the location. As to the other items, this is what we found in a survey of six cities:

COURT REPORTERS' FEES

City	*Price, Original and One Carbon*	*Second Carbon*	*Attendance Fee*
City 1 (Southwest)	$1.40	.40	none
City 2 (Southwest)	$1.55	.30	$9.50 per hour
City 3 (West Coast)	$1.37	.25	Not available
City 4 (Middle West)	$1.30	.40	$6.00 per hour
City 5 (Middle West)	$1.25	.25	$6.00 per hour
City 6 (East—not New York)	$1.25	.25	$5.00 per hour

Our average one-day hearing was defined as six hours, but the reporter is not transcribing testimony all of this time. The total cost of a transcript seems to run between $200 and $300, with each side paying one-half of the expense. The range of the total bill varies with the number of copies which the parties obtain. Sometimes each side obtains a copy but one of these copies is then sent to the arbitrator, along with the brief, and he is asked to return it when the case is decided. On a 200-page transcript, which might represent something like four hours of fairly steady reporting, a third copy of the transcript would cost the parties between $50 and $80, depending on the rates in the particular city.

TOTAL SERVICE FEE COSTS OF ARBITRATION

From the previous information it is possible to put together a schedule which will show what purport to be average service fee costs to a union and to a company for a one-day arbitration case. This does not represent the total cost because it does not include the following items, and perhaps others which might apply in a particular case: (1) travel expenses for the arbitrator, (2) travel expenses for counsel, (3) travel expenses for the court reporter, (4) lost time paid for committeemen attending the hearing, (5) conference room expense, (6) preparation time by company and union representatives other than counsel, (7) service fee for agency under whose auspices the hearing is conducted, (8) and any damages which the company may have to pay as the result of the decision. Of these items only travel and lost time paid are likely to add up to much.

Looking solely at the fees of arbitrators, lawyers, and court reporters the cost of an average one-day hearing emerges as follows:

	Cost to the Union	*Cost to the Company*
Arbitrator's fee ($400)*	$200	$200
Lawyer's fee	315	700
Court reporter's fee ($250)	125	125
Total	$640	$1,025

* Average fee per case for all FMCS cases in 1963.

In comparing lawyers' charges to companies and unions it will be remembered that hourly charges by company lawyers are more than in the case of union counsel, but that they also reported working more hours in preparing the case and in writing post-hearing briefs.

AMOUNT OF TIME CONSUMED - Grievance to Decision & Demand to Decision

CHART 1

Date	*Survey Auspices*	*Average Lapse of Time from Demand to Decision*
1954	AAA	97.5 days
1963	FMCS	154 days

CHART 2

Date of Cases	*Survey Auspices*	*Average Lapse of Time from Grievance to Hearing*	*Average Lapse of Time from Hearing to Decision*
1945–46	Ross	99.9 days	27.8 days
1955–56	Ross	111.7 days	45.9 days
1963	FMCS	167 days	73 days

CHART 3

Date of Survey	*Auspices*	*Grievance to Demand*	*Demand to Appointment*	*Appointment to Hearing*	*Hearing to Decision*
1963	FMCS	86 days	30 days*	51 days	73 days

* Three days for the FMCS to make the appointment and 27 days for the parties to reply.

52) 12000 (246.61
104
240
208
320
312
8
52

WHO CAN PRESENT GRIEVANCES?

The determination of the individuals and parties who have access to the grievance procedure and who can present grievances is important for several legal and tactical reasons.

Let's list some of those reasons:

Now, in the light of these tactical and legal reasons, let's take a look at some sample contract clauses relating to the initial presentation of grievances and discuss whether or not they seem to say what we think they should say.

Sample Clause No. 1

"The grievance shall first be presented by the aggrieved employee in person, and, if he so desires, in the presence of his department steward, to the shift or immediate foreman under whom the employee is working. The department steward shall be given an opportunity to be present at the adjustment of the grievance..."

Comments: _____

_____

_____

Sample Clause No. 2

"The dispute, difference or grievance shall be taken up by the aggrieved employee, the department steward, and the foreman of the department involved..."

Comments: _____

_____

_____

Sample Clause No. 3

"If an employee has a grievance, he shall report it to his steward, who shall endeavor to adjust such grievance with the foreman designated to handle grievances for that department..."

Comments: _____

_____

_____

Sample Clause No. 4

"The grievance procedure shall be available to the union and to the company as well as to the employees. When a complaint originates with the company, it shall follow the same steps as a complaint originating with an employee..."

Comments: _____

_____

_____

Sample Clause No. 5

"Any grievance which arises shall be processed through the following procedure: The dispute will be brought to the attention of the departmental foreman by the aggrieved employee(s) and/or his (their) Steward or Committeeman."

Comment: _____

_____

_____

****

A related issue which we should be clear about is the right of the union representative who is not an employee of the company to take part, at some stage, in the grievance procedure. Companies sometimes attempt to limit the right of their employees to obtain the assistance of their union representatives.

Let's look at some more sample clauses and discuss each one as regards how broadly or narrowly defined they are as regards participation of union representatives:

Sample Clause No. 1

"It is understood that an international representative of the union may be present on the union's behalf during step 4 and onward."

Comments: _____

_____

_____

Sample Clause No. 2

"At the request of the local union, not more than two international union representatives shall be permitted to participate in discussions of grievances at top management level..."

Comments: _____

_____

_____

Sample Clause No. 3

"Representatives of the Union's Regional Director and the International Union will have access to the company plant during working hours and the company office by appointment."

Comments: _____

_____

_____

****

THE UNION'S RIGHT TO INITIATE GRIEVANCES

Where there is any doubt whatsoever about the right of the union to initiate grievances, contract language which covers this problem is desirable. Many companies like to think that only individual workers or groups of workers have such rights. However, this is a position which can never be supported logically and can rarely be supported contractually. Even so the question involved is a common source of controversy.

Take a look at the following sample clauses in this regard. Which of these examples assures the union complete access to the grievance procedure?

Sample Clause No. 1

"Grievances by the company, and grievances of a general nature by the union, shall be initiated in step 4 by a written statement thereof..."

Comments: _____

_____

_____

Sample Clause No. 2

"A grievance other than that filed by an employee (i.e., a policy grievance) may be filed by the union at the appropriate step of the grievance procedure."

Comments: _____

_____

_____

Sample Clause No. 3

"Grievances involving groups of employees, the union, provisions of the Agreement having general application, or policy matters, may be brought by the Union or the Management above the first step of the grievance procedure.

In any instance where the Union is of the opinion that any individual employee has failed or refused to file a meritorious grievance, the Union shall have the right to initiate such grievance at the second step in the grievance procedure."

Comments: _____

_____

_____

POINTS OF LAW RELATING TO THE GRIEVANCE PROCEDURE

If a union represents a majority of the workers in a bargaining unit (i.e. the union has been recognized as the bargaining agent), the company must deal with the union on any grievance it presents to management.

Although an individual worker may take up a grievance with the company on his own hook, this right is subject to the following limitations:

(1) the union has the right to be present when the complaint is settled (unless it has waived the right).

(2) any settlement cannot interfere with the terms of the labor agreement.

(3) the company is under no legal obligation to handle grievance on an individual basis (unless the labor agreement calls for this procedure).

(4) the company cannot encourage workers to avoid use of the grievance procedure. It was ruled an unfair labor practice by the NLRB when a company told workers they would get a better deal by taking their complaints directly to the foreman without consulting with the union.

RP 6/22/67

The University of Wisconsin
University Extension
School for Workers

UNION LIABILITY IN PROCESSING GRIEVANCES

Does your union have to take every grievance to arbitration? If a member believes he has a good case and insists that the union go all the way with it, can the union refuse without being subjected to legal liability? What happens if you get sued? If the union decides not to take a grievance to arbitration, what conduct is demanded in order that there be sufficient legal protection? A new decision of the United States Supreme Court has just come down which provides sound answers to most of these questions.

A Missouri man had high blood pressure and his company forced him off the job. He filed a grievance and his union took it through every step of the grievance procedure short of arbitration. The man's family doctor said he was able to work, but the company doctor imposed a veto. The union then sent the man to another doctor at union expense for another medical opinion. This doctor was doubtful and on the basis of his opinion, the union decided it would not take the case to arbitration. The man then sued the union for a breach of the union's duty of fair representation. A Missouri jury burned the local union with a judgment of $9,500 in damages, which was affirmed by the Missouri Supreme Court. The case was accepted by the United States Supreme Court because of the important labor law issues in it, and was reversed with a final ruling in favor of the union.

The outstanding holding of the case is an answer to one of the questions we posed above. Your union does not have to take every case to arbitration, regardless of its merit or lack of merit. The union has a considerable range of judgment in every case, which must be exercised in a fair and nondiscriminatory manner.

The law is well established now that every union has a legal duty to every member of fair representation. This legal duty is couched in the following legal terms, according to the Supreme Court: "A breach of the statutory duty of fair representation occurs only when a union's conduct toward a member of the collective bargaining unit is arbitrary, discriminatory, or in bad faith." But what conduct would be arbitrary or in bad faith? If the union ignores the member's grievance altogether and fails to represent him, this would be strong evidence of a violation. The Supreme Court also indicated that if the union processed the grievance in a "perfunctory" manner it might beliable.

But what is processing a grievance in a perfunctory manner? Careless delay, lack of investigation, or a general lack of enthusiasm for a member's day in court might constitute such a case. It is far easier to show the opposite by following each step of the grievance procedure and seeking all the information available. We recently told you about another new Supreme Court case that requires the company to furnish information about a grievance during the grievance procedure. Since you now have that legal right, a failure to seek pertinent information might even be considered less than sound processing of a grievance.

Also, if there is evidence of personal hostility between a union officer and a member, and that officer used his influence to have a grievance dropped, then that might be evidence of bad faith.

But all throughout such a procedure, the member also has the burden of showing that his grievance was indeed a sound one. On the other hand, union

officers who decide to drop a grievance do not do so at their peril if it is shown that the grievance did have merit. The only legal standard involved is "good faith," as the Supreme Court said. In the Missouri case, the jury, by its verdict, indicated that it did agree with the member that he had a sound grievance, but since the union had acted in good faith, it had a legal right to be wrong without suffering the consequences. In other words, the member who insists that his grievance be taken to arbitration must prove two important points: (1) that the union acted in bad faith in dropping his case, and (2) on the merits, his grievance was sound. When it is considered that many cases are lost in arbitration that appear to be sound on their face, you can easily understand how difficult it may be to prove that a grievance could be won in arbitration.

The Supreme Court also made the union position a little easier in its decision when it held that damages must be apportioned fairly between the company and the union. If the company committed a violation in the first instance, the union should not have to bear the entire financial burden. A member should sue both the company and the union, and courts would have the duty of apportioning damages between the two. This brings the employer into every such lawsuit and causes him to share the burden of defense. This undoubtedly makes it more difficult for a member to recover.

This Supreme Court decision will not stop lawsuits against unions and employers in grievance cases, but it does define legal rights more clearly than anything we have had in the law previously. Most union agents will continue to do their jobs honestly and sincerely, and need not fear lawsuits if they make reasonable decisions, right or wrong.

Joseph E. Finley
OPEIU General Councsel
White Collar
April, 1967

Scope of Grievance Procedure

The most desirable definition of a grievance is one which encompasses any difference of opinion, job related of course, between the company and a worker, the company and a group of workers or, the company and the union. Unions believe that nothing is to be gained by writing a contract banning grievances which are not specifically covered by the terms of the agreement. A company which insists on such provisions places a premium on negotiators who are "crystal ball" gazers. To the extent that the contract fails to anticipate every problem the company also invites reduced morale by failing to make provision for the processing of legitimate complaints.

A series of contract clauses relating to the definition of admissable grievances is listed below. Indicate whether the clause, in each case in your opinion, is all inclusive or limited.

Sample Clause No. 1

Grievances, within the meaning of the grievance procedure, shall consist only of disputes about wages, hours of work, and working conditions, as provided in this agreement; about the meaning and application of this agreement; and about alleged violations of this agreement.

All inclusive ☐ Limited ☐

Why? _____

_____

Sample Clause No. 2

For the purpose of this agreement the term "grievance" or "complaint" means any dispute between the company and the union, or between the company and any employee concerning the effect, interpretation, application, claim of breach, or violation of this agreement.

All inclusive ☐ Limited ☐

Why? _____

_____

Sample Grievance No. 3

For the purposes of this agreement, a "grievance" is defined as any complaint, controversy or dispute concerning a question of fact, by and between the employer and the union, or a member thereof, including but not limited to such questions of fact arising either under or by virtue of the provisions of this agreement and involving the application of such provisions

either to the status or to the rights, privileges, powers and/or immunities of the employer and/or of the union, or of a local union or of a member thereof, or of any person or persons employed within the bargaining unit not a member of the union but represented by the union in collective bargaining procedures.

All inclusive ☐ Limited ☐

Why? _____

_____

Sample Grievance No. 4

A grievance shall be any dispute over the interpretation or application of this Agreement or any difference which may arise between the parties hereto.

All inclusive ☐ Limited ☐

Why? _____

_____

THE AGREEMENT TO ARBITRATE*

Labor-management disputes are brought to arbitration in one of two ways, either by a submission agreement which describes an existing controversy which both parties want settled by an impartial person, or by a demand for arbitration filed by either party to a contract, provided that contract has an arbitration clause.

Of the two forms which the agreement to arbitrate may take, the arbitration clause is by far the most common. Surveys indicate that approximately 95 percent of the collective bargaining contracts in effect contain future dispute clauses. The construction of the arbitration clause is of utmost importance to both parties, for it represents a voluntary and binding agreement to settle differences in impartial arbitration rather than in any other way.

The advantage of a future dispute arbitration clause is that it leaves nothing to chance. When a controversy arises, the parties may be in no mood to agree and it is sometimes difficult to get both parties to submit to the procedures of arbitration. But when they are subject to a clause, arbitration may be initiated without delay by either party.

The agreement to arbitrate, if it does not refer to established rules and procedures, does not by itself answer all questions. Among the problems that remain are:

How shall arbitrators be appointed?

When and where shall hearings take place? And who will make these decisions if the parties cannot agree?

Shall the arbitration board consist of one or of three neutral arbitrators?

If a tri-partite board is preferred (see Glossary of Terms), what shall the remedy be if the two party-appointed arbitrators cannot agreee upon an impartial member of the board?

What about representation by legal counsel? Shall witnesses be sworn?

How shall requests for adjournments be handled? May briefs be filed?

How are hearings closed and under what conditions may they be reopened?

When will the award be rendered? To whom delivered?

How much should the arbitrator be paid?

*Material adapted from "Labor Arbitration - Procedures and Techniques" published by the American Arbitration Association.

THE ARBITRATION HEARING

The date for the hearing is fixed by the arbitrator and the parties.

The customary order of proceedings is as follows:

1. Opening statement by the initiating party, followed by a similar statement by the other side.
2. Presentation of evidence, witnesses and arguments by the initiating party.
3. Cross examination by the other party.
4. Presentation of evidence, witnesses and arguments by the defending party.
5. Cross examination by the initiating party.
6. Summation by both parties, usually following the same order as in the opening statements.

This is the customary order. The arbitrator may vary this order, either on his own initiative or at the request of a party. In any case, the order in which the facts are presented does not imply that the "burden of proof" is more on one side than the other, for both parties must try to convince the arbitrator of the justice of their positions.

JS:1/64

Arbitration (preparation) [Poler]

Get witnesses together prior to hearing

Put questions to them (have written in advance, but ask orally of witness) — Strike questions that are too troublesome — add needed questions

Don't ask questions to which you don't know the answers —

Don't let co. Lawyer make proceedings too formal — if "objections" raised to question don't

back down — at least make arbitrator rule (preferably to note objection but hear the answer)

Work on letting people know what to expect — overcoming intimidation

Force Co. through Arbitrator to produce their case and its support — if they challenge production, where are the records, etc.

(why come, or don't come — Ape in Bar 9/10 ⁰⁰ Everton B. Tender] Supt of Schools Sales Tax

Preparing Case

Memo sheet

Listen — carefully, critically

Ask questions of worker — a) Get More Info b) Sharpen Info

→ Investigate

→ take Notes

Sources of info:

Info in a complaint

Where get

Facts — what happened

Contention — what should (not) have happened

Request for Settlement — remember retroactive

Files { Grievances (written & unwritten), Supp. Agree, Arbitration
Special plans (Pensions, etc.) Negotiation Notes
McEvoy, Seniority lists, Grievance Hearing Notes

where do members live?

~~workshops — 3~~

Written Grievances

Take Notes
Using Complaint forms, Chron

Preparing Case
Investigation – Sheets
Case
Presenting Issue – Narrow vs. Broad

Selecting Case – not too hasty
Where there is a choice estab. Principle
What can be taken – Feinsinger on Pat Practice
Working on Jones Case

Questions

Sheets – Read

Film
Producer
Actors – characters
What to watch for
Process – formality vs. informality
attitude

Jones Case
Prep – getting facts where list sources

Sides { ask the 'Criminal law' stand } Procedural Due Process vs. double jeopardy

Shifted in #4 after if not guilty from 'what's the remedy' to If guilty what is the penalty proper

Goat – co
Contentions
"Sullen"

Film – Arbitration in Action

Discharge case – arbitration –
Union protests ——— reinstate, back pay
Co – for good cause

Assn has appointed arbitrator

6/24/57

Oath – optional
fairly informal
Union went ~~first~~ Introduction only – is this customary
Introduction

"Demand" for arbitration
from Int'l Rep

Issue – get it stated
was Heathcliff Discharged for just cause
if not, what remedy

Co. first –
K cited – Joint Exhibit #1
Statement of case
Absences
Tardies
4/20 incident that caused discharged

Union – opening statement

Co.

Witness — personnel director — 14 years
sworn
identity established

Info on worker
stock clerk — drove truck

Relaxation on rules of dis charge

To Exhibit #1 dis charge slips
1) warned several times
have been absent without notice
2) inefficient in driving the truck

Any complaint about work
yes, lifting of heavier crates
"lumbago"

Employment record (presented to Union) — Exhibit #2
Was it an original record

12 absences
20 tardies

March only — 11, 12, 13 absent

wife called on 3/12
wanted to know where he is

Absence 4/20 on a business trip
left early, & did not return

Cross examined by Union
any other records

did you warn — yes, indirectly (through wife)
told Co of lumbago when hired —
are you anti-union; do you like him
lost Co. customer by slow "delivery(?)

Something New — ~~Not Tolman~~ Bob Manning
Unknown Witness — helper in Stockroom

was at plant on Sat. 4/20

went with Heathcliffe (Boggess)
2 at Heath. initiation

Started at 8:30, warehouse, Parade
witness loaded truck — finished 11:30
went to Boston for lunch 12:—1:30
Drink? 3 or 4 beers

Another place until 3:30 3 or 4 beers
Back to plant at 5:30

Cross: not even warned,
when was 1st Time
talk in office — week ago —
"Concerted" — don't like word, don't answer if you don't understand
lot of absentees

3rd Witness — Supt

Night before — week order for next day
2 hours should do it for trips

4/22 — Monday — gave slips in Supt office

Cross — no questions, no warnings
(Too short for establishing prejudice "you don't like"

Recess — because of new testimony

Union case

Witness — BA

Not a year of K — 1st arbit.

Heathcliff is shop steward

Call from H. on 4/22 about discharge

Called to arranged meeting

To: absenteeism was point —

What mention about ~~on~~ 4/20 — just say time

Had told to that they were disc.

The Man — Engdahl

Co had given good Conduct pin

Worked 10 years

No warnings or discipline

Active in Union — Started it — Steward

His Story — Fri Night 4/19 — Hennish talked to

Went to Cincinnati — wasn't ready

No drinking — tried to get back safely

Steward meeting

Cross by Co — Service pin or good Conduct

Absences — 3/11, 12, 13 — Vague response

[prepared for this due to absenteeism case]

4/20 Loaded — Launch

L Some beer

later to another place

Held up by Marathon (Ship?)

Summary — 1 minute

Procedural due process

Reason known to to at time must be the reason —

To — Author of book cited

Capital punishment of ind rel.

Cites another to — W. Wirtz, Arb.

Cite

Due process has no applicability

Decision — usually have time (30 days)

1) What is issue — equal

was discharge for just cause

2) Cause — absentee — inefficiency

3) Was he guilty

12 days absent — no warning

at least some others have equally bad

4/20 — Neglect of job by admission

4) was penalty proper

Hayland

ARBITRATION AND TECHNOLOGICAL CHANGE: A Survey of Experience in the 1960's

I. INTRODUCTION

A contention that was frequently expressed in the first two years of this decade alleges that "automation" has become an increasingly larger area of controversy between organized labor and management(1). There are, of course, a considerable number of ways in which the controversy could be expressed, including stalemated negotiations, authorized and sanctioned strikes, court proceedings, NLRB hearings, increased usage of the grievance procedures provided by the contract, "spontaneous" walkouts or slowdowns, arbitration hearings and so on. It is, unfortunately, difficult to make an empirical determination about the amount of friction traceable to automation, or for that matter, the amount traceable to other causes. To complicate matters still further, reliable information concerning strikes, contract negotiations, grievances and other types of disputes is almost impossible to find in government records and the industrial relations literature, without having to make matters more difficult by trying to identify and sift out those disputes arising from automation or technological change. A partial exception is found in the case of arbitration proceedings, however - a considerable number of arbitrators make a practice of sending reports of arbitration hearings to the Bureau of National Affairs and similar labor-management services for publication, and the student of industrial relations has the opportunity to collect information from these reports.

According to Slichter, 90 to 95 percent of all labor agreements in effect in 1959 provided arbitration as the final step in the grievance procedure(2). The arbitration hearing is a major contractual out-

let for unresolved disputes between the two parties and normally provides that a disinterested third party render a decision that is binding upon the parties involved in the dispute. If there really is more friction arising out of matters related to technological change, it is reasonable to expect the number of arbitration disputes to increase. The primary purpose of this paper is to determine whether the previously described contention of "increased labor-management friction" in matters related to technological change is demonstrated by the available reports of arbitration experience of the past year and a half. In order to see whether a change has actually occurred over preceding experience, it is of course necessary to compare the recent decisions with earlier arbitration experience, which will also be done in the course of this paper. Our major hypothesis, therefore, will be as follows: "A larger proportion of labor-management disputes, culminating in the arbitration hearing and involving technological change, occurred in the period running from the middle of 1960 to the end of 1961 than occurred in the period 1953-'54, an approximate equivalent."

This paper will also consider the following related questions, first for the period 1960-'61, and then the later period will be compared with the arbitration experience for the roughly comparable period 1953-'54, as follows:

1. What areas of personnel administration tend to become involved in disputes related to technological change?

2. What are the jobs, and what technological changes are involved in labor-management disputes?

3. What unions and industries are involved in disputes over technological change?

4. What is the nature and effectiveness of the contentions of labor and management in these disputes?

5. Who participates in an arbitration hearing called for resolving a dispute arising out of technological changes?

6. What proportion of all reported arbitration cases include issues arising out of technological innovation?

7. What is the effect of such changes upon jobs and job content?

8. Is technological change having an effect upon the collective bargaining process?

II. METHODOLOGY

"Automation" is a popular non-technical equivalent for the term "technological change" in the layman's (and many arbitrators') parlance. The two terms will therefore be treated synonymously hereafter. The terms are defined as "The installation and use of new or improved equipment and machines accompanied by varying amounts of change in jobs and job content." "Equipment and machines" will include servomechanisms of an automatic or semi-automatic nature, with or without self-adjusting and self-monitoring features. Changes in operations or methods not accompanied by a change in equipment or machinery will not be be considered to be bona fide technological change.

The data are drawn from the Bureau of National Affairs' Arbitration Reports bound in Volumes 21, 22, 23, 35, 36 and 37. The paper is based upon the reports published between the dates September 7, 1953 and December 31, 1954, and the dates September 7, 1960 and December 31, 1961. The 1953-'54 period was chosen because economic conditions were approximately the same as for the period extending from the middle of 1960 through the end of 1961; both periods include parts of recessions and extend into the beginning of recovery periods, and both were peacetime periods.

The Bureau of National Affairs publishes almost all of the arbitration reports mailed them by the various arbitrators desiring to see

their decisions in print. Some arbitrators send BNA reports on most hearings in which they participated where they could secure the permission of the parties. It is very probable that permanent arbitrators report a larger proportion of their cases to BNA than do ad hoc arbitrators; there is no reason, however, to suppose that this introduces an unforgiveable bias to the results. It is likely that the cases reported by the Bureau of National Affairs are reasonably representative of all arbitration cases heard and decided upon during the two periods previously defined.

Arbitration disputes involving technological change were identified by applying the previously described definition of automation to each of the cases reported by BNA during the defined periods. This involved reading the titles and digest of each report and determining whether or not there was "technological change" involved in the dispute. The system, while far from foolproof, is believed to have been sufficiently precise to identify the greater number of disputes of the type to be studied. BNA reported on 543 arbitration hearings during the period 1953-'54, of which number 13 were judged to involve technological change; BNA reported 647 arbitration hearings in the period 1960-'61, of which 38 included some form of technological change. Some of the reports considered several grievances and made several distinctly separate decisions; one case involved 52 separate decisions (15).

More data were collected than could possibly be presented; the data will be grouped, where it is possible, and general responses made to the questions phrased earlier - reference will be made to specific BNA reports wherever possible (see footnotes at back of paper).

III. RESULTS

The results indicated a significant increase in the percentage of cases involving technological change - 5.7 percent of the 1960-'61 disputes involved technological change compared to 2.4 percent for 1953-'54. There was an accompanying increase in the number of cases reported; 647 were reported in 1960-'61 compared to 543 for 1953-'54. The preceding percentages indicate that disputes involving technological change are relatively few in number; it is probable, however, that their importance far outweighs their numbers and have a greater impact upon the parties than is accurately indicated by frequency of occurrence. The reports indicate that management actions tended to be more drastic and involve larger numbers of workers than was the case in other types of disputes.

What areas of personnel administration did the disputes over technological change tend to erupt in? The issue of crew reductions was disputed by unions in 41 percent of the cases of the 'Sixties (5,7,8,9,12,15,17,18,21,24,26,27,36,38). Crew reductions were disputed in only 15 percent of the cases in the period of the 'Fifties (45,46). Abolishment of jobs was disputed in 22 percent of the cases for the 'Sixties (6,19,25,28,31,32,33,34) and only one case in the 1950's(51). In the period 1960-'61 the reduction in number of jobs and people working was by far the largest source of anxiety to workers and unions, while it was a far less serious problem in the period 1953-'54.

Other subjects for dispute between the parties, for the period 1960-'61, include the following, in order of importance: disputes involving new jobs (10,11,14,29,30); job or work jurisdiction (11,13,20, 30,35); rate adjustment disputes (4,10,14,22,33,37); addition to work load (4,22a,37); seniority rights of female workers (25,31); dispute

over issue of seniority versus ability in promotions (29); and finally, determination of amount of royalties to be paid into union fund (16).

For the period 1953-'54, the most important issue, by far, centered around the determination of rates and job classifications (40, 41,42,43,47,49,50,52).

What kinds of jobs were involved in disputes in the two periods? The largest number of disputed jobs were of a semi-skilled machine tending nature in both periods. The disputes reported in 1953-'54 did not involve any white collar or technical employees, while six cases in the period 1960-'61 did (3,6,11,14,30,35). The period in the 'Sixties indicated that a larger proportionate number of cases involved unskilled jobs, such as truckers, machine helpers or attendants and maintenance helpers, although the total number of cases was small in both periods.

What kinds of technological changes occurred? In both periods the largest percentage of disputes involved the installation of new equipment or improvements to old equipment. For the period in the 'Sixties, 55 percent of the cases were of preceding type (6,8,11,14,17, 18,19,20,21,22,22a,23,26,28,30,32,33,36,37,38,39) and in the 'Fifties new equipment or improvements to old equipment or improvement to old equipment (40,42,43,46,49,52). The installation of automatic or semi-automatic equipment elicited disputes in 29 percent of the cases in the 'Sixties (3,4,7,10,12,13,27,31,34,35) and none for 1953-'54. Other disputes in 1960-'61 centered around the issues of containerization (16, 24) and centralization of power house controls (5,29). Other disputes in 1953-'54 involved changes in loading and warehousing (45,50) and equipment or process changes of an inconsequential nature (41,51). Automation is truly a problem of the 'Sixties, judging from the arbitration evidence!

What unions are involved in disputes over technological change? For both periods, the United Steelworkers of America led the field, by a large margin, for disputes involving automation. For the period 1960-'61, other unions include the United Auto Workers, the Oil, Chemical and Atomic Workers, the United Mine Workers, the Glass and Ceramic Workers, the Bakers and Confectioners and others (see footnotes for complete listing).

What industries appeared most often in disputes related to technological change? Basic steel and steel fabrication, considered as a group, led the field in both the 'Fifties and 'Sixties. Food processing figured in a considerable number of cases in the period 1960-'61 (12, 26,27,31,33,34,38). Other industries involved in disputes in the 'Sixties include chemicals (5,9,11,32), 'longshoring (16,24), railroading (13,39), electrical manufacturing (6,10,23,25), and paper, newspaper and printing (7,17,37). For the period in the 'Fifties, other industries included aircraft (42), shoe manufacturing (43), food processing (45), textiles (46), chemicals (48), and grain milling (50).

What arguments were commonly employed by the parties during the period in the 'Sixties? The most frequently noted (and presumably the most compelling to arbitrators) management argument arranged itself around one and/or both of the following premises: Management has an inherent right to make any technological changes deemed necessary to increase productivity and improve plant efficiency and no contract clause should be interpreted as limiting this fundamental right; second, Management has the unilateral right to make changes in jobs, or job content, that are deemed necessary to adjust to and take full advantage of technological improvements made in the work place. Unions, on the other hand, argued that any changes affecting employees in the bargain-

ing unit were both arbitrable issues and matters for joint determination (the arbitration disputes were usually protesting unilateral actions by management). Unions often argued that the safety and health of employees was threatened by the changes accompanying technological innovation (particularly in cases of increased work load and abolishing of jobs). In a couple of instances, the unions charged that "technological changes" existed only in the minds of management and were not found in the work place; actually, they stated, automation was being used as an excuse to make changes in jobs that they could not otherwise make without negotiating with the union.

Unfortunately, no time was available to compare the arguments of the 'Sixties with those used in the period in the 'Fifties.

How did the arbitrators react to the arguments of the parties? The decisions, in the 'Sixties, were normally very much in favor of the companies. The unions were favored in only 13 percent of the cases (6,10,16,35,37). Unions were favored in disputes concerning rate disputes (10,37), amount of royalties payable to the union fund (16), in a case involving abolition of a job - the arbitrator held that the job still existed (6), in a dispute where the company attempted to transfer a programming function to a salaried, non-union technical employee (35). The employees and unions were largely unsuccessful in claiming that companies should negotiate matters pertaining to technological innovations. Contract language appeared to play a minor role in decision-making by arbitrators.

For the period in the 'Fifties, the arbitration decisions were surprisingly different; the unions got favorable decisions in 53 percent of the cases involving technological changes (40,43,44,45,49,50,51). They were favored in disputes involving pay commensurate with increased

productivity (40,43,49), reduction of crew (45), abolishing jobs (51) and freezing job content and rate until negotiations (50) - arbitrators of the 'Sixties held that similar contract clauses "did not apply" where technological changes were introduced, and management had an inherent right to "unfreeze" involved jobs.

What are the backgrounds of arbitrators participating in the hearings? Information is not available for every arbitrator, so percentages will be based upon the 34 cases where information was available for the period 1960-61; fifty percent of the arbitrators were associated with the legal profession compared to 70 percent in the 'Fifties. Economists, industrial relations specialists and persons in similar fields (Commerce, etc.) were used in 44 percent of the reported cases of the 'Sixties compared to 23 percent for the same type of people in the period ending in 1954. Twelve percent of the arbitrators in the 'Sixties had industrial engineering training compared to eight percent (one case) in the period ending in 1954. Of the individual professions, the economists gained the most ground and the lawyers lost the most in the seven-year period. The preceding figures do not add up to 100 percent for either period - some arbitrators indicated proficiency in more than one area (Economics - Theology, etc.).

What kinds of occupational backgrounds were found among the people appearing for the companies? Information was available for 21 out of 38 hearings for the period 1960-'61 and eight out of 13 hearings for 1953-'54. For the period 1960-'61, the occupational breakdown is as follows: lawyers, 76 percent; industrial relations managers, personnel managers and personnel assistants, 67 percent; production management, 52 percent; labor relations experts, industrial engineers, electrical engineer, other specialists, 38 percent; top management (vice-president

and above), one case. For the 'Fifties the breakdown was as follows: lawyers, 88 percent; industrial relations personnel, 63 percent; production management, 38 percent; experts and specialists of the types described for the '60's, 25 percent. Comparison of the two periods suggests that fewer technicians were utilized in the 'Fifties and fewer lawyers in the 'Sixties.

What are the occupational backgrounds of the persons appearing for the unions, and how often did they appear? Information was available for 22 out of 38 hearings for the period 1960-'61 and for seven out of 13 hearings for 1953-'54. The occupational breakdown for '60-'61 follows: full-time paid union staff (international or business representatives); 73 percent, local union officers, 64 percent; lawyers, 50 percent; local union committee members, 27 percent; chief stewards and stewards, 18 percent; witness, one case; the grievant, one case. For 1953-'54, occupations were as follows: full-time paid union staff, 43 percent; local union officers, 57 percent; lawyers, 29 percent; local union committee members, 29 percent; chief stewards and stewards, one case; no witnesses appeared and the grievant appeared in one case.

What is the effect of technological change upon the disputed jobs? The major effect, it appears from the arbitration record, is to reduce the number of jobs within the bargaining unit, as the unions have had little success in preventing the company from making crew reductions and abolishing jobs. There are, of course, disputes involving new jobs, but they do not come near replacing the numbers of jobs that are lost, at least insofar as the cases here reported are concerned. The 'Sixties' arbitration experience involved rate adjustments far fewer times than in the earlier period - more union efforts were directed at "slowing down" the rate of technological change. Due to the relatively few number of

cases reported in 1953-'54, a note of caution is indicated when making comparisons; in general, the unions appeared to be more successful in moderating the effects of technological change upon their members in the earlier period than in the 'Sixties.

What effect has recent technological change (insofar as arbitration disputes are concerned) had upon collective bargaining? The arbitrators are in more or less agreement that companies have the inherent right to change methods, equipment and jobs as a part of their fundamental and unassailable management function. The decisions have favored the management argument much more than the unions' (see earlier results). The decisions of the arbitrators have tended to remove from the collective bargaining table the actions, of management, stemming from technological changes.

IV. DISCUSSION

The proportion ot arbitration cases involving technological change does not appear unduly large, if we generalize from the published arbitration reports. Slichter and colleagues noted in their book that practitioners and scholars are "unduly preoccupied" with the idea that a low volume of arbitration cases is "good" while a high volume is "bad," and they suggest that the contrary might be true (53). He illustrates by including several cases showing companies that have secured favorable decisions in a large majority of cases (54). He suggests that it may be advantageous for management to increase the volume of arbitration disputes rather than seek settlement through other channels (at the bargaining table, settling in low stages of grievance procedure, labor management committees, etc.). His suggestion would appear to be worthy of consideration for disputes involving technological change, as nearly 87 percent of the decisions favored the companies in the 'Six-

ties. Thus, it might be to the advantage of management to increase the number of technological change disputes carried through to arbitration, as the likelihood of a favorable decision is quite good, provided the stock contentions are employed.

On the other hand, Slichter points out the potential "risks of winning;" if management succeeds in securing favorable decisions in too many of the arbitration cases, there is a risk that the union will lose faith in the arbitration process and seek satisfaction through other means (55). The record of decisions favoring management in disputes related to "automation" is such that it may become disillusioning to local unions and members - to forestall the results of this disillusionment, Slichter suggests that a few "weak" case be occasionally allowed to go to arbitration - the resulting decisions are assumed to restore rank-and-file faith in the arbitration process with a continuation of a status quo generally advantageous to management.

The arbitration reports indicate that the process is not a major channel for resolving disputes, contractual or otherwise, related to automation and technological change. Union leaders choosing between various methods for solving problems of technological innovation would find the arbitration record unimpressive. The arbitrators have been more sympathetic to the "inherent management rights" argument than they were in earlier years. The major concern of unions in cases of the 'Sixties has been with job security; in the 'Fifties, it was with rate and job classification adjustments. "Increased pay for increased productivity" no longer is a major topic for arbitration, as it was in the earlier period.

If arbitration has done little to enhance union members' job security, it has done considerably more for industrial relations tech-

nicians; they are being utilized, in the arbitration hearing, in greater numbers than was the case seven years earlier. Lawyers are used less often, although they are still the largest occupational group appearing for the various participants (unions, however, are using lawyers oftener than in the period 1953-'54).

Management appears to enjoy three major advantages in presenting their arguments to the arbitrator; authority is more centralized, they are less "hampered" by a respect for democratic representation of grievances, and are hence able to screen out poor arbitration risks more efficiently; they employ more skilled technicians who more effectively gather facts and present cases; and finally, the arbitrators appear to be more sympathetic to management arguments than they were seven years earlier.

END

George Hagglund
January 8, 1962

Footnotes

1. Barbash, Jack. "The Impact of Technology on Labor-Management Relations." From forthcoming volume, Adjustments to Technological Change. Industrial Relations Research Association, Sterling Hall, University of Wisconsin. (1962)

2. Slichter, Livernash and Healy. The Impact of Collective Bargaining on Management. Brookings Institute. 1960, page 739.

3. Bethlehem Steel Company, Shipbuilding Division and Industrial Union of Marine & Shipbuilding Workers ofAmerica. 1/15/60, 35 LA 72.

4. United States Ceramic Tile Co. and United Glass & Ceramic Workers 3/7/60, 35 LA 113.

5. Allied Chemical Corp. and United Steelworkers of America. 6/13/60, 35 LA 289.

6. Borg-Warner Corp. and United Automobile, Aircraft and Agricultural Implement Workers. 4/14/60, 35 LA 367.

7. United States Steel Corp. and United Steelworkers of America. 6/30/60, 35 LA 588.

8. Waltham Screw Company and United Automobile, Aircraft and Agricultural Implement Workers. 11/21/60, 35 LA 602.

9. Midwest Carbide Corp. and Oil , Chemical and Atomic Workers. 6/29/60, 35 LA 618.

10. Magnavox Co. and International Union of Electrical, Radio and Machine Workers. 12/9/60, 35 LA 662.

11. Linde Co. and Oil Chemical and Atomic Workers. 11/15/60, 35 LA 664.

12. California and Hawaiian Sugar Refining Corp. and Sugar Workers Union. 11/30/60, 35 LA 695.

13. Union Pacific Railroad, Order of Railroad Telegraphers and Brotherhood of Railroad Trainmen. 1/3/61, 35 LA 810.

14. Western Union Telegraph Co. and American Communications Assn. 5/27/60, 35 LA 856.

15. Pittsburgh Plate Glass Co. and United Glass and Ceramic Workers. 6/60, 36 LA 21.

16. New York Shipping Assn. and International Longshoreman's Assn. 11/16/60, 36 LA 44.

17. Publishers' Assn. of New York and New York Mailers' Union. 8/11/60, 36 LA 86.

18. Bethlehem Steel Co. and United Steelworkers of America. 2/13/61, 36 LA 162.

19. United States Steel Corp. and United Steelworkers of America. 9/24/60, 36 LA 273.

20. United Carbide Plastics Co. and United Mine Workers, District 50. 9/16/60, 36 LA 376.

21. Bethlehem Steel Co. and United Steelworkers of America. 3/17/61, 36 LA 394.

22. Keasby and Mattison Co. and United Cement, Lime and Gypsum Workers. 9/16/60, 36 LA 423.

22a. New York Air Brake Co. and Int. Assn. of Machinists.

23. Triangle Conduit & Cable Corp. and International Brotherhood of Electrical Workers . 6/5/61, 36 LA 1097,

24. Hilo Transportation & Terminal Co. and International Longshoremen's and Warehousemen's Union. 1/5/61, 36 LA 1132.

25. Essex Wire Corp. and International Brotherhood of Electrical Workers. 6/18/61, 36 LA 1254.

26. Anheuser-Busch, Inc. and International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America. 2/9/61, 36 LA 1289.

27. McGough Bakeries Corp. and United Bakery & Confectionery Workers. 8/1/61, 36 LA 1388.

28. Independent Lock Co. of Alabama and International Union of Electrical, Radio and Machine Workers. 6/22/61, 36 LA 1392.

29. Wisconsin Electric Power Co. and International Union of Operating Engineers. 6/21/61, 36 LA 1401.

30. United States Steel Corp. and United Steelworkers of America. 8/8/61, 37 LA 6.

31. American Sugar Refining Co. and United Packinghouse, Food & Allied Workers. 7/6/61, 37LA 16.

32. Diamond Alkali Co. and United Mine Workers of America. 5/5/61, 37 LA 24.

33. Borden Ice Cream Co. and Dairy & Bakery Salesmen and Dairy Employees.

5/9/61, 37 LA 140.

34. Braun Baking Co. and American Bakery & Confectionery Workers. 5/12/61, 37 LA 169.

35. General Motors Corp. and United Automobile, Aircraft and Agricultural Implement Workers of America. 9/16/61, 37 LA 192.

36. Bethlehem Cornwall Corp. and United Steelworkers of America. 8/28/61, 37 LA 318.

37. Weyerhaeuser Co. and Amalgamated Clothing Workers of America. 9/11/61, 37 LA 323.

38. Libby, McNeill & Libby and International Longshoremen's and Warehousemen's Union. 9/20/61, 37 LA 466.

39. Union Carbide Metals Co. and United Steelworkers of America. 8/2/61, 37 LA 501.

40. Jones and Laughlin Steel Corp. and United Steelworkers of America. 7/29/53, 21 LA 84.

41. Veeder Root, Inc. and International Assn. of Machinists. 7/16/53, 21 LA 387.

42. McDonnell Aircraft Corp. and International Assn. of Machinists. 10/26/53, 21 LA 424.

43. International Shoe Co. and United Shoe Workers of America. 8/21/53, 21 LA 550.

44. Bethlehem Steel Co. and United Steelworkers of America. 10/19/53, 21LA 598.

45. Weston Biscuit Co. and Biscuit and Cracker Workers Union. 12/10/53, 21 LA 653.

46. Celanese Corp. of America and Textile Workers Union of America. 12/17/53, 22LA 148.

47. Jones and Laughlin Steel Corp. and United Steelworkers of America. 2/4/54, 22LA 270.

48. International Minerals and Chemical Corp. and International Chemical Workers Union. 3/15/54, 22 LA 446.

49. Dayton Steel Foundry Co. and United Steelworkers of America. 2/26/54.

50. Nebraska Consolidated Mills,Inc. and American Federation of Grain Millers. 3/7/54, 22 LA 785.

51. Lone Star Steel Co. and United Steelworkers of America. 8/27/54, 23 LA 164.

52. Bethlehem Steel Co. and United Steelworkers of America. 9/7/54, 23 LA 340.

53. Slichter, et al: op cit, pp 774.

54. Slichter, et al: op cit, pp 778

55. Slichter, et al: op cit, pp 799

ALBERT KING CASE

BACKGROUND

Albert King has worked for the Trane Company during his current period of employment since March 28, 1954. He was hired to work on the Gilbert Milling Machine in Department 326. He worked at this job for a period of some 18 months to the apparent satisfaction of the Company. During part of this time, King served in the position of supervisor which is a job of some responsibility in the nature of leadman and carried with it the sum of 5¢ per hour over the regular rate.

King is a former employee of the Company. He was hired on about Jan. 22, 1951 (with a seniority date of May 22, 1951) and ended his employment on April 1, 1953. The fact that he was rehired indicates that the Company held his abilities in some regard.

The issues in this case do not reflect a dispute as to King's general abilities as a worker. The Company has insisted that the man is well qualified and capable. It is on these very attributes that the Company bases part of its contention - it has said that such a man is capable of better work on the basis of his record and experience and that therefore his alleged recent errors must be viewed more sternly.

NATURE OF COMPANY CHARGES

In a series of meetings with the Union grievance committee, the Company detailed the charges against King. All of the incidents occurred on the third shift. The Company charges are as follows:

In November, 1954, King was working on heat exchangers on the Gilbert Mill. A notation on the blue print called for a groove 11/16 inches deep. King is alleged to have gone 1¼ inches deep instead of 11/16 inch on one unit. The Company said that the Material Review Board (a government board which checks on work being done for the government) had been watching King's work on the basis of his recent performance

and informed the Company that it would accept no more errors. (The Union, of course, does not encourage faulty work and fully appreciates the need for quality on both government and civilian orders).

On Friday, Nov. 19, 1954, the Company has said that King was taken off the Gilbert Mill and placed on the adjoining lathe operation. According to the Company, this change was accompanied by an AVO slip which indicated that he was being moved due to errors in his work which made it unacceptable to the Material Review Board and that he was to be removed from the Gilbert Mill and all machines until further notice. (AVO stands for "avoid verbal orders" and is a form regularly used by the Company for the transmission of instructions.) This AVO slip was shown to King but was not returned to him after being taken away by the foreman.

(The Union contends that the Company is in error as to the date of King's removal from the Gilbert Mill. The Union contends that King stayed on the Gilbert Mill until approximately December 8, 1954. He continued to run all regular work except units pertaining to 542 and 547 - heat exchangers - and in addition, ran a radial drill, an old lathe on the opposite end of the job, and swept and cleaned up, all before being moved to the lathe).

On Thursday, Dec. 9, 1954, the Company stated that Rider 49999 was issued to build up and remachine three engine air inlet headers which had been machined .10 inch short. These errors were charged to King, now on the lathe, and the Company says it cautioned King about checking his work to insure adherence to required tolerances and reminded him of the importance of quality. The Company says that King indicated that he would check each piece. The Company stated that King had not stamped

his pieces but that he finally "admitted" that he must have run them if the other pieces were accounted for. However, the Company also stated that this matter of stamping was somewhat incidental to the case (page 5, minutes of Jan. 27, 1955 meeting).

(The Union wishes to point out that if King ran these pieces and did not stamp them, this did not indicate an intent on his part to avoid responsibility for the work. King turned in to his foreman the core numbers of his pieces with the knowledge that this made the work traceable to him. At other times, heat exchangers have been milled too short and riders issued to that effect, also stating that the operator was unknown even though the units were stamped with individual markings. Many units are repaired by welding, etc., on operation #66).

On Monday, December 13, 1954, the Company stated that Rider 52966 was issued covering King's work and involving repairs on 8 units on which the high pressure outlet header groove had been machined about .01 inch too deep. The Company said that King had run one piece at which point the foreman checked the job. The foreman checked all the demensions except the groove in question which the Company says the foreman could not check without a checking fixture. It says that the foreman asked King about the groove and that King replied in somewhat colorful language that it was OK. The Company says that King then proceeded to run 7 more units all containing this one error.

(The Union contends 1) that seven rather than eight units are involved. The eight units were lying behind the lathe. The error on one unit was the responsibility of another operator. This point is not made to quibble about numbers; the Company showed marked interest in

King's earlier alleged failure to stamp his work - yet in this instance the Company failed to adequately identify his work. In addition, the fact that one unit was chargeable to another worker indicates that errors of this nature are not restricted to King's work (see below - How Errors Are Handled On Days). 2) There is a dispute as to the foreman's role in checking the job after the first piece. The Union contends that the foreman did not check the depth of the groove although King asked him to do so before the foreman was called away. Although the Company says that the foreman could not check the groove without a checking fixture, the Union suggests that if the worker could check it, the foreman would be equally capable of doing so. Furthermore, King had already run one unit which was available for checking in its entirety. Finally, in the light of the Company's expressed concern over the alleged inaccuracies of this worker, the Union suggests that the Company as represented by the foreman might have shown a more acute interest in checking this phase of the work of a man who was under observation).

ACTION TAKEN BY THE COMPANY

On Friday, Dec. 17, 1954, the Company called in the Union grievance committee, announced the results of its investigation regarding King, and stated that it was going to penalize him with one week off without pay and a final warning that future acts of negligence would be cause for discharge. This decision was formalized in a COMPLAINT REPORT, as follows:

> Albert King has displayed marked negligence in the performance of his assigned duties. He was transferred on or about 11-19-54 from the Gilbert milling machine because of machining errors on heat exchangers resulting in rejection of the work by the Materials Review Board. He was given written notification of the faulty work and was removed from the job. He has since been negligent on two occasions while working on the lathe. The last instance discovered this week involved machining errors on 8 heat exchangers.

The report was dated Dec. 17, 1954, and was signed by T. A. Rodman. The disposition stated:

> One week layoff without pay and final warning that future acts of negligence will be cause for discharge.

A penned notation said: "effective 12-20-54.

This same report was made apart of the minutes of the meeting with the Union grievance committee on Friday, Dec. 17, 1954, indicating that the Company was prepared to act prior to any consultation with the committee.

It was on this date, Dec. 17, that the Union first heard of the matter. Although there was no steward in that department at that time on the third shift, the Company had never involved a steward from another department or shift, or a grievance committeeman in the absence of a steward (both common practices) in its discussions with King, and had never discussed the case as it developed at any of the frequent meetings with the Union grievance committee.

At the meeting on Dec. 17, the Union indicated that if the man wished to file a grievance the Union would investigate the case (page 3, minutes of Dec. 17, 1954 meeting). The worker did subsequently file a grievance on January 7, 1955, stating that he felt he had been treated unjustly and requesting pay for the time he had off.

UNION'S POSITION RELATIVE TO COMPANY'S CHARGES AND ACTION

The Union makes two basic contentions relative to the Company's charges and action in this case. In the first place, the Company admittedly went outside the contract in its handling of this case and in the imposition of the penalty. The Union believes that the Company is bound by the contract, and furthermore, that if the Company had followed the procedure provided in the contract, the case never would have been aggrevated to the point of a disciplinary layoff.

In the second place, the Union entertains considerable doubt as to whether the discipline imposed was justified under all of the circumstances which will be detailed below.

Action Outside The Contract

Among the 38 pages which constitute the main body of the contract, 9 pages, 21 to 29 inclusive, or 23.7 percent, are devoted to Article VI, Rules and Regulations. This Article states in great detail a wide variety of rules and provides with painful explicitness for the penalties which will result from any violation of the rules.

The Union has presumed that within this part of the contract are the rules and regulations which the Company believes are necessary for its efficient operation. This is a negotiated agreement with the Union signing its name to a contract including these most detailed rules and penalties. The Union agreed to these nine pages of rules and penalties. It did not agree to permit the Company to by-pass these rules at its discretion. The Union contends that there is nothing in the case of Albert King which requires the Company to act outside the contract even if it had the right to do so which the Union believes it does not. The Company has been able to get along with these rules for almost five years. Management's right to discipline is clearly defined

and limited, if you can call it that, to nine pages.

Article VI is not a general clause stating, for example, that management has the right to discipline for just cause and that the Union has recourse to the grievance procedure in the event of a dispute. In this case, the Company has signed a contract which spells out exactly what will happen in every situation. Nonetheless, in this case the Company said that it had to go outside the contract.

In previous meetings with the grievance committee on this case, the Company had difficulty expressing itself as to the nature of King's offense. It said that "this case involves negligence", that "it could be described in stronger terms such as deliberate disregard of the foreman's orders", that "maybe it could be regarded under many rules," that "you might call it deliberate scrapping of materials", or "if there is such a term as deliberate negligence or refusal to follow instructions it might be involved", and, in summary, that "it is unique in that it does not fall within the rules that are written in the contract". (References are to pages 1 and 2, Dec. 17 meeting)

> (The Union here suggests the question in its mind as to what may happen to its relationship with the Company if either party is permitted to wander at will from this and perhaps other provisions of the contract because in the opinion of one or the other party, a situation is "unique", or in the event that it feels cramped by the confinements of any current agreement.)

However, the Company could not bring itself to call King's offense any of these things. Although some of the Company's suggestions are reminescent of the language in the first four rules, a violation of any one of which calls for immediate discharge, in the opinion of the Company they did not apply - nor does the Union suggest they should.

Nor did the offense in the Company's view fall under Rules 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, or 17. There are three specific mentions in the contract of the Company's chosen penalty of one week off without pay, but the Company did not choose any of these rules. One week off without pay is found in various applications of Rules 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 and 17. The Union suggests that this wide latitude permitted in matters of discipline also acts as a limiting factor which makes it unnecessary and contractually improper for the Company to go outside the contract as the Company acknowledges that it did in this case.

The Union contends that the Company was not helpless in the case of Albert King. The contract specifically provides for cases of this nature under Rule 5. The possible application of this rule was never mentioned by the Company to the Union in the early meetings on this case and the Company expressed surprise when the Union, after its investigation, suggested that this rule be applied at the Jan. 27, 1955 meeting.

Rule 5 comes into frequent use. It is found on pages 22, 23 and 24 of the contract and provides as follows:

> Efficiency and good workmanship will be required of all employees. This Rule will be applied as follows:
>
> a) Using a standard measuring stick for employee performance, the management will apply this Rule in regard to employees whose record indicates unsatisfactory performance in accordance with the following procedure.
>
> b) The Union and the Management will discuss each case for the purpose of selecting those individuals who justly deserve a first warning. The Management's decision will be final as to those cases to receive warnings.
>
> c) Individuals who receive a first warning shall be permitted a thirty (30) day trial period to determine whether their performance has been satisfactorily improved.

d) At the end of the thirty (30) day trial period, the Union and the Management will again discuss each case. The Management will determine which, if any, of the so warned employees are in violation of this Rule. The first violation of this Rule will result in a compulsory transfer of the infringing employee to another department. The Management and the Union Committee will each designate two (2) departments into which the employee may be transferred. The employee may select the department into which he will be transferred, but he must select one.

e) If, after an individual has received a transfer into a new department, he will then be given a sixty (60) day trial period to determine if his performance in the new department is satisfactory. The Management will again discuss each case with the Union and determine whether the employee has violated the Rule for the second time. A second violation will result in a compulsory transfer of the employee to another department. The Management and the Union Committee will each designate two (2) departments into which the employee may be transferred. The employee may select the department into which he will be transferred but he must select one.

f) If, after an individual has received a second transfer into a new department, he will then be given a sixty (60) day trial period to determine if his performance is satisfactory in his new department. If the employee is again found by the Management to be in violation of this Rule, he will receive an automatic discharge.

g) The selection, discussions, and any resulting transfers resulting from Rule No. 5 will not come under any formal time-table except that the first trial period will be at least thirty (30) days long and the second and third trial periods will be at least sixty (60) days long.

h) Under the application of Rule No. 5, an employee may receive a warning as specified in paragraph "c" and improve sufficiently during the thirty (30) day trial period in which case the warning will be dropped; or an employee may improve sufficiently after a transfer to a new department as specified in paragraphs "d" or "e", in which case the warning will also be dropped. Under no circumstances, however, will an employee be permitted to accumulate more than three (3) warnings as specified in paragraph "c" within a period of less than a year and a half. Receipt of a fourth warning during this period will result in discharge.

i) Any results of the operation of this rule shall be subject to arbitration in accordance with the grievance procedure set forth in this contract.

It should be noted that this rule deals with "efficiency and good workmanship" as required of all employees. This is the basis of the King case - the Company complained of his workmanship. 5-a refers to "unsatisfactory performance"; this is in line with the Company charges

against King.

The Company's form "NOTICE OF FIRST WARNING" used under Rule 5 quotes the "efficiency and good workmanship" phrase at the top and then proceeds as follows:

> A review of your job performance based on speed of production, use of working time, accuracy and cooperation indicates that you are below average on:
>
> ____USE OF WORKING TIME
> ____SPEED OF PRODUCTION
> ____ACCURACY
> ____COOPERATION
>
> Therefore, in accordance with the 1950-55 Labor Agreement, the Company is invoking Article VI, Rule #5, paragraph (c) which states:
>
> > "Individuals who receive a first warning shall be permitted a thirty (30) day trial period to determine whether their performance has been satisfactorily improved".
>
> At the end of the thirty (30) day trial period your performance will be jointly reviewed by the Company and the Union. If your job performance, based on the above four traits, has shown sufficient improvement the warning will be dropped. If satisfactory improvement has not been shown, however, you will have violated Rule #5 and will be subject to paragraph (d) of that Rule.

The Union calls attention to the words "accuracy" and "cooperation" as used in the NOTICE OF FIRST WARNING. Certainly the Company's charges against King were in the realm of accuracy, and the Company's implications of "deliberate disregard of foremen's orders", "negligence", "deliberate scrapping", "deliberate negligence" and "refusal to follow instructions", which the company seemed to feel fell under none of the rules, may be considered to deal with the problem of cooperation.

It should also be noted that when Rule 5 is applied, the Union is consulted at every phase of the procedure. In the case of King, the Union knew nothing about it until the Company announced its intent to procede against the man outside the contract.

There is a reason for involving the Union in the application of this Rule. Although Management's decision is final (with the Union having the right to file a grievance), the participation of the Union committee in the discussions of a case makes it possible for the Union to know what is happening, and not infrequently to assist a warned or transferred worker to make good. The union is able to reinforce at a different level and from the worker's perspective the Company's desire to straighten out an employee. The Company felt that King was capable but needed to be straightened out, and could find no rule under which to do it. The Union believes that Rule 5 gave the Company exactly what it needed. In addition, personal problems uncovered by the Union's investigation under Rule 5 cases are often found to be contributing factors to on-the-job problems. This would have held true in this case as will be subsequently explained.

The Company expressed a real desire to see King Straighten out, but it failed to use the rule which, among other uses, had a specific application; which would have given the Union the opportunity to enter the case at the beginning when it might have done some good; and which would have really alerted the worker to the nature of the Company's objections to his performance. King contends that he was never cautioned about prior alleged errors until he was taken off the Gilbert Mill. He states that he did not know that the Material Review Board had its eye on him. The AVO slip given to him which the Company says detailed the reasons for his removal from the Mill was taken by the foreman and never returned.

The Union suggests that the Company could have better expressed its concern over a good man which it felt was apparently slipping by applying Rule 5, by seeing to it that he was given an opportunity to

retain the AVO slip, and by checking his work closely through the foreman - an omission in the case of 7 units which precipitated the Company's decision to lay him off for a week. The timetables in Rule 5 are qualified under 5-g as being informal - it is perfectly conceivable that no transfer would have been necessary had the Rule been applied with all its many opportunities for investigation and discussion.

The effect of what the Company did do was to place the man under extreme pressure, teetering on the brink of discharge, not knowing what minor error might cause his dismissal. This is in direct contrast to all other rules, and especially Rule 5, which let a worker know just where he stands at every phase of their application.

Circumstances Which Suggest the Injustice of the Company's Action

The Union's major contention is that the Company had no right and no need to go outside the contract. However, the Union does not just state that the Company did it wrong. There are circumstances involved (all of which would have come to light under an application of Rule 5) which cast grave doubt on the justice of the Company's action, aside from other considerations.

1) Defects in jigs and equipment.

Prior to the alleged error leading to King's removal from the Gilbert Mill, mistakes occurred on three units of 3105 due to improper jig stops and alignments. The day worker made the same mistake and stated that the jig was wrong.

While charged with eight bad units on the lathe, King only ran seven of them. Someone else ran the eighth and made the same error. The Company did not, so far as the Union knows, check the checking equipment to see if the error might have been in the equipment itself. The foreman did not attempt to measure the groove on the finished piece nor of

the piece on the lathe.

King's cutting tools on the Gilbert Mill were inspected and passed by the foreman and Company inspector, but were rejected by the Navy inspector. So far as the Union knows, the cutting tools on the Gilbert Mill and the lathe were not checked for possible defects before King was disciplined.

The Union has discovered a jig used on the Gilbert Mill and lathe (but on different units than apply in this case) which was at least .007 inches off. The Union suggests that there is room to consider that King's jigs may have been off.

The Union has discovered another jig which was determined as at least .0035 inches off.

The Union suggests that its investigation of jigs and cutting tools makes at least possible the conclusion that errors in King's work may have been beyond his control.

2) The manner in which errors in this department are handled on other than the third shift.

There were welders working on the first and second shifts in this department, but not on the third shift. When errors such as those charged to King occurred on the first or second shifts, they are welded up and remachined. The Company is familiar with this practice and acknowledged at previous meetings that when a worker has brought his error promptly to the attention of supervision, it has been possible to build up the groove by welding and remachining the unit. There is an implication here that King might have done likewise had he caught the first error and had a welder available. It has already been noted that many units have been repaired by welding on operation 66.

The Union contends however that the usual practice on the first and second shifts is that if a man makes an error he does not go to the

foreman or superintendent. Instead, he goes and has it welded up on his own and machines it over again without consulting supervision.

The Union suggests that it is possible that the absence of welders on the third shift contributed to a situation under which the Material Review Board put the Company on the spot for a common practice which could not be conducted on the third shift and that the Company therefore felt compelled to take action against the worker. The Union is not attempting to justify errors occurring on other shifts, but it does point out that King did not have the resources available to him which others enjoyed. Errors were occurring on the other shifts but no discipline resulted because the errors were immediately repairable. The Company has made no effort to discontinue this practice since the time it was informed of it by the Union on Jan. 27.

3) King did not have a chance to become familiar with the lathe.

King was placed on the lathe on about Dec. 8, 1954. The Company's first charge against him on the lathe was on ~~Friday,~~ Thursday, Dec. 9. Even an experienced machinist requires a little time to familiarize himself with the operation of an unfamiliar machine.

In connection with the Company's charge involving the seven units which was reported on Monday, Dec. 13, King was not familiar with the checking equipment, a detail which should have concerned the Company to the extent of instructing him in its use and checking more closely on his work, particularly since it was concerned about his performance. It should be noted that only one working day elapsed between these charges, hardly a long time in which to become familiar with a new operation. (Rule 5 provides for a minimum trial period of 30 days).

4) King was not aware that he was on the spot.

Some of these facts have already been mentioned but will be restated as being pertinent to this section.

King states that when he was taken off the Gilbert Mill he was not cautioned about previous alleged errors or informed that the Material Review Board was watching him. The AVO slip given to him at the time of his removal from the Gilbert Mill was taken away by the foreman and never returned. The Company could perhaps not insure that he would keep it, but by seeing to it that it was in his possession it would have served to emphasize the Company's concern. Both of these items would have been subject to thorough discussion under an application of Rule 5.

5) King had a serious personal problem.

At the time of the occurrance of the Company's charges, King was involved in a serious and tragic misfortune. His wife was confined to the hospital and lost their child at birth. This same event had occurred on several previous occasions. Such things will affect all aspects of a man's behavior. At about the same time, parties unknown inserted sugar into the gas tank of King's car, requiring some $500 worth of repairs.

In the initial discussion of this case with the Company on Dec. 17, 1954, and before the Union had knowledge of these facts, it raised with the Company the possibility that some personal problem might be involved. The Company accepted the possibility but suggested that it was nonetheless necessary to have an attentive worker from a safety standpoint. The Union acknowledges the soundness of this view, but points out that if Rule 5 had been applied at the beginning, these facts would have been discovered and the problem could have been dealt with in view of all the circumstances.

SUMMARY

The Union's contentions are that the Company had no right to go outside a contract which is most exhaustive and explicit in matters pertaining to discipline; that the Company had a rule - Rule 5 - at its disposal which if properly used might well have caused the problems resulting in this hearing never to arise; and that in view of the many circumstances cited by the Union, the Company not only acted improperly but also without sufficient cause.

The Union requests that the disciplinary action against Albert King be removed from his record and that he be compensated for his lost wages.

UNION LEADERSHIP ACADEMY

FALL SEMESTER

APPLIED UNIONISM CURRICULUM

WORKSHOP ON ARBITRATION

In Cooperation With

New York State School of
Industrial and Labor Relations
Cornell University

Labor Education Department
Pennsylvania State University

Labor Program
Institute of Management and Labor Relations
University Extension Division
Rutgers - The State University

BEST COPY AVAILABLE

Introduction to Arbitration Course

The rules and procedures for arbitration vary according to the provisions of the collective bargaining agreement or the rules adopted by the arbitrator or the arbitration board. No effort is made in this course to deal with the rules or procedures provided in collective bargaining ontracts since these usually depend upon local circumstances. Thus, procedures which arise before the actual conduct of an arbitration proceeding are omitted here. A set of simple rules are used in the mock arbitration proceeding.

The emphasis is generally upon the technique of analysing cases, particulary in relation to the provisions of collective bargaining agreements. This is the central problem which confronts the union whenever it finds itself having to use the arbitration clause of its agreement.

Since an arbitration decision necessarily relates to the provisions of the collective bargaining agreement under which it arose, arbitration awards do not have the value or significance that decisions of law have. Therefore, none of the decisions cited here nor any of the conclusions reached in the course of these sessions have any direct bearing upon cases which arise in your experience in the future. The important thing is that you sharpen your own tools of analysis, not that you learn any facts or precedents of value elsehwere.

The course consists of two parts. The first is a series of brief cases, disputes which have arisen in various places in industry. These are to be read and analysed with the aid of two work sheets in this section of the binder: 1) arbitration analysis form and 2) arbitration witness form. The second part of the course is built around longer cases which are used in a mock arbitration proceeding.

When to Take A Case to Arbitration

Decide in each of the following cases whether or not you think the union should take the case to arbitration. Be ready to give reasons for each answer.

	Arbitrate? Yes	Arbitrate? No
1. The union agreement is about to expire. The grievance committee is deadlocked with the company over an issue involving subcontracting of a plant repair job. The contract is silent on subcontracting.	____	____
2. It is in the middle of the contract year. The company and union are disputing rates set on new jobs. The contract provides that all unresolved grievances may go to arbitration in the fifth step.	____	____
Would your answer be the same if the contract was about to expire?	____	____
3. A steward was fired. The company alleges that the reason was "unsatisfactory work" and too many unexcused absences. The union agreement simply states that a worker may be fired for "just cause". This steward has been under some company pressure for agressive handling of grievances.	____	____
4. A worker was fired for leaving the plant without permission. It had been a fairly common practice but recently the company has been getting tougher. Two workers received one-day layoffs recently for the same offense. The contract has three months to run.	____	____
5. The contract states that the company may set job standards subject to the grievance procedure. The union has lost two arbitration cases on this subject in the past six months. Now a grievance has arisen involving about 50 workers in a plant of 300. The contract expires in 60 days.	____	____

Handling Arbitration Cases

1. The Union Agreement

The starting-point in all arbitrations is the union agreement. If there is any part of the contract that covers the point at issue, it will be considered first by any arbitrator in making his award. If the contract is silent on a matter, or if the language is unclear or not detailed enough, the arbitrator will look to other standards for judgment.

2. Plant Practices

Where the language of the agreement is not a sufficient guide, an arbitrator will look into the practices of the particular plant where the arbitration case arises. Here he will look at how similar problems have been treated in the past and at such evidence as records of grievance or bargaining sessions where they have been discussed.

3. Practices in other plants of the same company or industry

Where neither the union agreement nor plant practices form a reliable guide, arbitrators sometimes take account of practices elsewhere in the company or industry. Strictly speaking, they are not supposed to do this. They are obligated to decide the issue on the basis of the particular plant and the particular agreement before them. There are no such things as legal precedents in arbitration, except where permanent arbitrators are established and there is a specific agreement that precendents will be used.

There are hazards to both sides in wandering too far afield to get supporting evidence.

4. Practices in industry generally

The same comments made in point 3 above apply here. These practices are even more remote from the plant where the problem arises. But arbitrators love to quote each other and sometimes when they can find no other reason for a decision, they will look to other arbitration awards on the same subject. The hazards to both unions and management of deciding an issue in the chemical industry on the basis of a decision in ladies' garments are obvious.

Subcontracting is a good example of an issue where arbitrators look at general practice in the absence of contract language and specific plant practice where the case arises.

Arbitration Analysis Form

Company _____

Summarize issue, including settlement desired:

_____

Union _____

_____

Points on which union and company can agree:

1 _____

2 _____

3 _____

4 _____

5 _____

6 _____

Points union will try to prove:

1 _____

2 _____

3 _____

4 _____

5 _____

Points company will try to prove:

1 _____

2 _____

3 _____

4 _____

5 _____

Clauses from agreement union will rely upon:

1

2

3

Clauses from agreement company will rely upon:

1

2

3

Arbitration Witness Form

List names of witnesses of union first, then company	For each witness enter briefly -	
	What he or she is expected to establish	Questions to ask of witness on cross-examination

ARBITRATION ANALYSIS

Discharge for Leaving Plant

Arthur Black, a millwright at the XYZ Company, was planning a vacation in Arkansas. He wanted to get off early on Friday, July 11, so that he could get a head start. He asked his foreman, Bill Sims, if he could leave at noon on Friday. It was Thursday when he asked. Sims looked a little annoyed and said that he did not think it would be possible, with three welders out of the plant on loan and one thing and another. However, when Black persisted, Sims finally said that if the job on which Black was working was near enough to completion by noon the next day, Sims would let him know, and he could get off.

Later in the day, Sims told Hal Peterson, the lead millwright, to tell Black to hurry and weld a plate on which he was working, if he wanted to get off early. Peterson passed this word along to Black Friday morning. Black was pleased, for it seemed to him that things were shaping up just the way he hoped.

Black did not see Sims that morning, except at a distance. He did not make any special effort to see Sims. If anyone had asked him, he would probably have protested, he didn't want to bother Sims.

Black had his welding line and torch with him at the machine on which he was working. He was going to shift to another part of the job where he would no longer need to use the welding equipment. He asked his mates if they could use it after he left. They told him to leave his buggy there, and one of them would lock it up in the maintenance shop.

Several times on Friday morning leadman Peterson, according to Black's account, gave Black hand signals concerning his work. Several times during the morning Peterson gave him signals meaning "tighten up" or speed up. Around noontime Peterson gave a signal that Black interpreted to mean "knock off". Other millwrights were around when the signals were given. Sam Fogler was working alongside Black. A number of the men, Fogler in particular, say that they saw the signals.

At noon, Black put his helmet and goggles on his buggy and walked towards the shower room, about 35 or 40 yards ahead of Peterson. Sims was in his usual place at the maintenace office desk. Black went to the showers, clocked out and headed for Arkansas. While on vacation, he received a call from the local president saying he had been discharged.

The union has proceeded with his case. The grievance committee has talked with most members of the crew. They say that the job on which Black was working was finished Friday afternoon at 3:30 p.m. Fogler reports that he saw Peterson give the hand signals and he would have assumed, in Black's place, that the signals meant he could leave. Fogler added that as steward, he would certainly think that Peterson had authority to let Black leave early.

The agreement has a standard "management rights" clause. Included in the Company Rules, Group II, First Offense - Discharge is the following.

"18. Leaving the plant and plant premises during working hours without authorization."

Charles Dexter, the Company's personnel man says that a notice had been posted six weeks earlier on the maintenance bulletin board to the effect that all shift changes had to be approved by Sims.

Several of the men on the millwright crew argue that they have changed their schedules by talking with Peterson. There are more men who would acknowledge that they have re-arranged their schedules personally with Sims. It seems to be a matter of "to whom do you like to talk?". But everyone agrees Dexter is right about what the board says. A few fellows add, "But who reads the board? There's so much junk there anyway".

Sims naturally is annoyed about the whole matter. He is saying to a number of the maintenance men that he knows why Black left his buggy out in the mill. He was afraid to check back in the maintenance shop, where he would run the risk of confronting Sims.

1. Fill out the Arbitration Analysis Form.

2. Determine who are the witnesses for each side and fill out the Arbitration Witness Form. Pay special attention to what each witness is expected to establish and what questions could be asked on cross-examination. Do not use a witness if you think his testimony might hurt your case.

ARBITRATION ANALYSIS

Case of the Gabby Clerk

Elvis Kowalski worked nights and went to college during the days. He was absent on payday (Thursday) and on Friday on his own time went to the payroll office to pick up his check, according to company practice. He stood beside the desk of a payroll clerk for 10 minutes while she carried on a three-way telephone conversation which the employee said consisted of "hideous laughs and nonsense". After 10 minutes of listening he pressed down on the connector bar, interrupting the conversation. The clerk then looked for his check and told him it wasn't there. He came back two hours later, and she told him she did not like what he had done and wanted him to go with her to see the office superintendent. He agreed. The superintendent said he had been in the wrong and must apologize. He refused, and was suspended by the superintendent. The next day he saw the Assistant Director of Industrial Relations who said he should apologize and, if he did, he could return to work. Again he refused and a grievance was filed. Several conferences followed, with the company offering several times to take the employee back if he would apologize, or say that he was sorry about his part in the telephone incident. He went so far as to say he would exchange apologies, but would go no farther. The company said in that case the discharge would stand.

The company relied on a clause in the agreement providing discharge for "interfering with the work of an employee".

At one of the grievance meetings on the case, the union brought in Stewardess Doris Murphy who had been in the payroll office when the incident had occurred. She stated that the conversation had taken place between two girls in the payroll office (whose phones were bridged together on one line) and someone else outside. She said that a great deal of giggling was done, but that it was impossible to tell what subject the conversation was on. It was her firm opinion, however, that it was not a business call. She said that as soon as the employee left, the girl whose call was interrupted had rushed in to see the superintendent. The company offered no evidence to refute her testimony, but insisted that it was a business call. Furthermore, they pointed to the "management rights" clause stating their authority to run the company and reiterated that "nobody was going to tell them how to run their office".

The union said at the first grievance meeting that the company had acted improperly by suspending Kowalski without giving him an opportunity to have union representation. However, they said they would not raise this as an objection at the arbitration because they were sure they would win the case. They also mentioned the "cooperation" clause and said the company was not being very cooperative by making an employee wait 10 minutes to pick up his check when he is in the payroll office on his own time.

The company brought into the grievance discussion a report from John Gardzit, the watchman who had been involved in the parking-lot incident with Kowalski six months earlier. Kowalski had driven in almost at shift change and, finding no space available, had parked in a visitors' lane. Gardzit ordered him out of there, and through Kowalski was in a hurry, he paused long enough to call Gardzit a "nosy s.o.b.", and several other names which Gardzit found too salty to put in the report. Kowalski also blew his horn noisily out of anger. The company said that this report had raised a doubt in their minds as to whether Kowalski had the right attitude towards the company and its employees, and the latest incident in the payroll office had confirmed their suspicions.

The discharge clause listed the causes for discharge and one of the causes was "interfering with the work of an employee".

1. Fill out the Arbitration Analysis Form.

2. Determine who are the witnesses for each side and fill out the Arbitration Witness Form. Pay special attention to what each witness is expected to establish and what questions could be asked on cross-examination. Do not use a witness if you think his testimony might hurt your case.

Case of the Discharge of a Local Union President*

Melvin Capote had been working at the Right-Wing Company as a Pressman for a number of years. Altogether he has had twenty years with the Company, in various jobs, since he worked his way up to his present job, which is one of the top-paying jobs in the plant. He made his greatest strides during the war years, when younger men left the plant for military service.

He has been president of Local 945 for about eight years. Previously, he had held minor offices in the local union, and he had been steward several times. He is a very popular fellow, always willing to listen to any member about problems big or small. As a matter of fact, the men and women in the department often stop at Melvin's machine, to air their grievances, since they know they will never be given a brush-off by him.

In addition to his activity in the Union, he is active in his church and in many civic organizations. When the community decided to solicit volunteer contributions for a new War Memorial Recreation Center, Melvin was up to his ears in the work. He discussed the project with his local union Executive Board, and they decided to make an all-out drive in the plant, to get funds. The drive had become very closely associated with the unions in the community (there is a large and active union membership here) and also with some of the churches and other civic organizations. The five large companies, including Right-Wing, had been approached, but they had taken no action yet about their contributions.

The local union executive Board decided to make collections in the plant. Melvin approached the Company personnel director, Mr. Lawrence, and told him of the union's action.

"We are going to make an all-out drive on this thing, Mr. Lawrence, and we want to solicit money right here in the plant. When the fellows are not busy, of course. But we think we can really do the job this way. This will be a really big thing, you know. Wrinleville doesn't have any decent place for our people to have meetings and hold dances, and we are thinking we might be able to finace a group of sports activities as part of the center. It'll be a big thing, Mr. Lawrence, bigger than anything we've attempted."

Mr. Lawrence fidgeted as he listened to Melvin's glowing account of what could be done by the people, for the people and so on.

"Well, I think that's just fine, Melvin. Why don't you just hang up a collection box at the time card racks? The fellows can put their money in as they come and go."

With this, Mr. Lawrence made ready to break up their conversation and leave. Melvin was badly disappointed. He tried to persuade Mr. Lawrence.

"Oh, that won't do the job. You know how hurried the men are when they come in at shift changes, and they are even worse when they are going home. Now, I was thinking that one of our men could make a tour of the plant. We would be willing to pay him for lost time, of course, and that way he could really do the job. I know everyone wants to support this project of ours."

"No, I am afraid we just cannot do that. It would take too much time. It would disrupt production. It just wouldn't work, Melvin. Try the collection box and let's see what happens. We can always change our approach later, if necessary."

And with a broad smile, Mr. Lawrence left Melvin thoroughly dissatisfied. He decided not to hang up the box.

The following Sunday the local held its regular monthly meeting. Melvin made a long report on his conversation with Mr. Lawrence. He had been talking it over with members of the executive board, and by now the Company's lack of cooperation really took on gigantic proportions for him. Meanwhile, he had been meeting with the Recreation Center committees, and his concern about the project mounted.

He talked at length about his conversation at the local meeting. Subsequently, when various members were asked what he said, there were conflicting accounts. The local secretary had only a minute on the final action, so that the actual statements could never be verified. It appeared that Melvin had left the impression with some of the local members that the Company would not cooperate in the solicitation. One of Melvin's strong supporters finally moved that a letter be sent to the principal Recreation Center Committee, regretting that management at the Company would not cooperate and that accordingly funds could not be solicited there.

Among other things, the letter said: "The President of Local 945 regrets that the Right-Wing Company refuses to permit our union stewards to solicit funds in the departments, for this very important cause. Our local union regrets that we are prevented from cooperating with you because of the Company's attitude". The letter was signed by Melvin.

Meanwhile, rumors were throughout the plant. Workers were discussing the Company's refusal to cooperate. At the same time, there were some production difficulties. The material supply department was having trouble, and as a result defective board was being conveyed to the press rooms, and substantial amounts of printed box blanks has to be discarded. The supply machine crews complained that there was something wrong with the glue, but the foreman said it was the same glue they had been using for months. The defect in the board did not really show up until after the cutting, creasing and printing, so that large quantities were wasted before corrections could be made on the supply machines.

* This was has been adapted from Case 12, page 152 of COLLECTIVE BARGAINING: PRINCIPLES AND CASES by Dunlop and Healy, with the permission of the publisher, Richard D. Irwin, Inc., for use ataff training seminar of the Industrial Union Department, AFL-CIO.

At the end of the week Melvin was called to Mr. Lawrence's office. Mr. Lawrence said he had heard from several members of the standing committee and members of the union that it was too bad the Company took such a bad position on the Recreation Center collections. When Mr. Lawrence asked where they got this idea, he was told they had all heard it at their union meeting. Lawrence insisted that Melvin had reported their differences incorrectly and that he should issue a written statement correcting the story. Melvin was annoyed to begin with, and after further exchanges, he insisted that it was none of Mr. Lawrence's business what happened at union meetings, and that he had better give the names of the "squealers". Lawrence sent him back to his machine, and by this time both men were in a temper.

Two hours later, Melvin was called to the plant superintendent's office. John Carlson, superintendent, formerly was a member of the union. He asked Melvin to sit down and began with a casual comment about the difficulties they were having with board and box blanks. He continued,

"But that's not really why I called you up here, Melvin. We have to do something about this business of the local meeting and what you said about Mr. Lawrence. You know he is quite upset and insists that you retract your statement. I think he is right, and that you ought to clarify your statement at once."

"I don't know what bothers Mr. Lawrence", Melvin replied. "He has no business meddling in what we do at our meetings. I have nothing to to retract."

"Well, Melvin", Carlson continued, "I really think in view of all these production difficulties, you had better retract right now. You know, you have some responsibilities here, too, and this whole think is getting pretty bad against you. I would advise you to change your mind and make a statement right now. If not, I shall have to suspend you".

"I am not making any retraction", Melvin countered.

"All right, Melvin, then you are suspended as of now. We'll let you know in a day or two whether the thing becomes a discharge. We have to review the facts. You can consider this the notification to the union."

Melvin left, but he went through his department before punching out and left a trail of rumor and gossip as he departed.

The next day he received a formal notice from the Company, and the local union received a copy, as required by the agreement:

"You are hereby discharged. The reason is your having made false statements concerning the Company and its officers, and you have repeatedly violated the rules of the Company. Production records, further-

more, indicate that you are not performing your duties properly. These matters have been called to your attention, but you have refused to cooperate".

The union has taken up the case, and it is now on its way to arbitration. Additional things have been happening and being said.

The Company has been questioning employees about the statements made by Capote at the union meeting. John Silver and Jack Small seem willing to say something to the effect that Capote had said the Company would not cooperate in the drive to raise War Memorial funds and that Mr. Lawrence particularly had been uncooperative. They also seem to think that no indication had been given at the meeting that the Company was willing to permit the posting of a contribution box.

It is known in a vague way that Capote has over the past several years made derogatory statements about officers and agents of the Company.

Also relevant are the following facts, subject to interpretation.

There was a substantial loss of production in the week following the union meeting. Capote did fail to catch the damage before it has been repeated to a point where a whole order had to be done over. As Pressman on the second-largest machine, he was responsible for all the work coming off the press. Furthermore, he has a certain responsibility for inspecting stock as it is fed onto the machine.

Production records over a period of time showed that Capote's press had on at least ten occasions during the preceding five years been the lowest in terms of production of all the ten presses in the plant. Earnings are based on an incentive system, and average earnings on this press were consistently lower than on comparable presses elsewhere in the department. No reprimands had been issued on this basis, however.

The record of defective box blanks is different. Reports covering 20 different days during a three-year period showed that on each of these dates defective box blanks had come off Capote's press. On two occasions the specifications had not been followed exactly, so that orders had to be duplicated. On one occasion Capote was given a demerit for faulty production. One of the 20 reports followed this demerit.

There is some evidence in Company records that Capote had repeatedly violated plant rules, mostly on minor issues. He had been away from his machine too long at rest periods on four occasions. He had left the machine early on three occasions. He violated the rule on absenteeism twice. For all of the infractions he had received two reprimand slips, and he had a one-day suspension. All of the violations had occurred since he took over the presidency of the local union.

In addition, the superintendent has voiced the following sentiments since the discharge:

"Sure, Melvin Capote has been promoted in our plant several times, and we have never fired him for his infractions of rule or his inferior production. His promotions all occurred during a period when labor was very hard to get. Our standards were lower then than they are now.

* * * *

"Capote has never been one of our top men. But his work has been fair, just fair, that's all. He has always talked too much, and most of the time we don't object. We try to be fair to our workers.

"But now during the last month, I can cite occasions every few days when Capote has been busier talking to someone from another department, rather than tending to his machine. He has a first-class helper on that machine, and he takes advantage of him. Normally, we don't care, but when all these things are added up, they spell trouble.

* * * *

"Just last week, when I passed the press, I saw Capote talking with one of the girls on the partion machine. Ten minutes later, when I passed again, they were still talking. Now, I don't know who was doing the partion work, and I don't ask any questions unless trouble developes, but this just gives you an idea of how he operated.

"I had the feeling that week we fired him, that we would never have had all the trouble on his press, if he had been more attentive to the operation and watched it more carefully."

PREPARATION FOR ARBITRATION

By Mozart Rattner

1. In selecting an arbitrator try to find out as much as you can from other local unions in the area or union lawyers who handle arbitration about the views of the potential candidates on the kind of matter that you will be involved in your arbitration case.

2. As far in advance as possible, try to ferret out of your opponents their contentions and the arguments they intend to rely on. One way to do this is to attempt to agree with them upon the precise issue that is to be arbitrated. Whether you agree or not on the issue, you will get a chance to get them to state their position in advance.

3. Remember that in most cases, the other side would not go to arbitration unless it believed that it had a position which it had a good chance to sell to the arbitrator. Investigate their position carefully; that is the only way you could prepare adequately to meet it.

4. Prepare your own witnesses and your own documentary evidence, whatever it may be, in great care before the hearing. You should know before you ever step into the hearing room exactly what questions you intend to ask each of your witnesses, exactly what their answers will be to your questions and exactly what documentary evidence you intend to introduce. You should also have prepared your witnesses in advance for the kinds of questions you anticipate they may be asked on cross-examination by the other side.

5. Before the hearing, prepare a written statement setting forth the principal facts on which you rely and the reasons which lead to conclude that you are right in your position. Writing it out will help you to see which facts are the strongest elements in your case and will lead you to place greater emphasis on them and less emphasis on the relatively less important points.

   As you work the statement over, you may find that there are questions that you have not discussed with your witnesses and will want to cover. You may also find holes in your case that you will want to make some effort to fill. You may use your written statement either as an opening statement to the arbitrator, or save it for use at the conclusion of the arbitration.

6. Do not as a general rule argue your case while you are putting in the facts; save argument about what the contract means or the justice of the situation, etc., until the end of the hearing.

7. As a general rule, do not try to establish your case through company witnesses. They are there to hurt, not help you. There are a few occasions when it is desirable to call company witnesses as your

witnesses before anything else is done for the purpose of getting their story on record and cross-examining them before your witnesses testify, but at the times when this should be done are rare. In general, do it only when you don't care what story the company gives, but you want to be certain that they cannot shift it in the light of what your witnesses will testify.

8. Cross-examination is a dangerous weapon for the one who uses it. It is a general rule that you should never ask a question on cross-examination unless you know in advance what the answer must be and are prepared to prove that a contrary answer is a lie. Here, again, there are exceptions, but the general rule is the safest one to follow.

9. Part of your preparation in arbitration cases should be to examine what other arbitrators have held in similar situations. Arbitrators are not bound by the principle of stare decisis, that is, following precedent. However, they are influenced by the reasoning of arbitrators in other similar cases, and if you can find well reasoned arbitration opinions in other cases that support you, they are very apt to prove most helpful.

10. Agree upon the arbitrators' fees in advance and also make arrangements for sharing all costs of the arbitration.

11. Most arbitration cases are won before you ever get to a hearing. They are won at the contract drafting state, and they are won in way grievances are presented. When you are drafting a contract clause, try to think of all the possible circumstances which may arise involving the subject and draft language which will, if possible, protect you in all the situations you can think of.

12. In presenting your grievances, try to phrase your claim in the most sympathetic manner possible from your point of view in the list of the language of the contract or the circumstances on which you rely. Remember, the way the grievance is phrased may ultimately be the way the arbitrator first sees the question, and initial impressions can be important.

13. Watch the time steps provided in your contract within which grievances must be processed and arbitration demanded. Remember that if you let the time go by, the arbitrator may not be able to reach your case on the merits at all. Similarly, if the company does not respond within the time fixed by the contract, the arbitrator may be required to grant your grievance without even looking into the company's defense.

14. In construing a collective bargaining contract, arbitrators will generally follow the rule that if the language of the contract is clear, neither the past practice of the parties nor any verbal understandings can be relied upon to change the effect of the clear written language. However, if the written language is

ambiguous and can support either of two interpretations, past practice, oral understandings, and even custom in other companies or in other industries may be relied upon by the arbitrator in deciding what your contract means. Where you have ambiguous language, you should, in preparation for your case, examine industry custom and practice as well as the background of past practice in the plant involved.

[n.d.]

Source: Bureau of National Affairs
- Collective Bargaining, Negotiations and Contracts

SCOPE OF ARBITRATION

Generally speaking, the disputes which collective bargaining contracts commit to impartial determination are the same as those which may be handled in the grievance procedure.

The subjects most widely excluded from arbitration are disputes encountered during interim contract reopenings for the general consideration of wage rates; disputes over production standards; and amendments or modifications of the agreement.

The most common limitation appearing in contracts prohibits the arbitrator from adding to, subtracting from, or otherwise modifying the agreement; he is usually confined to questions involving the application or interpretation of the contract itself.

Affect of 1960 Supreme Court decisions

The scope of arbitration has been broadened in practice by the 1960 decisions of the U. S. Supreme Court in the three Steelworkers cases (46LRRM 80). In these decisions, the Supreme Court largely limited the role of courts, in collective bargaining arbitration cases, to determining whether:

a) the claim of one of the parties was governed by the contract (not whether it had merit);

b) the contractual arbitration clause covers the dispute (if the dispute is not clearly excluded from arbitration, the courts should send the case to the arbitrator);

c) the arbitrator based his award on the contract and remained within his authority (if he did, a court may not overrule him even though it disagrees with his award).

The limitation of the courts' role in arbitration and the concurrent stress on the contractual agreement to arbitrate differences rather than to strike or lock out have created controversy as to whether and how to restrict the scope and volume of arbitration.

Matters subject to arbitration (examples)

1. "All" complaints, disputes or grievances

(ILG and National Dress Mfrs. Assn. Inc., exp. 1-64)

All complaints, disputes or grievances between the parties hereto involving questions of interpretation or application of any clause of this agreement, or any acts, conduct or relations between the parties or their respective members, directly or indirectly, shall be submitted in writing by the party hereto claiming to be aggrieved to the other party hereto,

and the manager of the Association and the manager of the Joint Council, or their deputies, shall, in the first instance, jointly investigate such complaints, grievances or disputes and attempt an adjustment. Decisions reached by the managers or their deputies shall be binding on the parties hereto. Should they fail to agree, the question or dispute shall be referred to a permanent umpire to be known as the "Impartial Chairman" in the industry and his decision shall be final and binding upon the parties hereto.

Comment: Elsewhere in the contract the arbitrator is specifically given broad powers, including the authority to fine employers for contract violations, examine their books, and adjust piece rates.

2. Any disputes germane to the contract

(Laundry Workers and New Jersey Linen Supply Cos., exp. 9-64)

Any and all disputes and controversies arising under or in connection with the terms and provisions of this agreement or in respect to anything not herein expressly provided for, but germane to the general subject matter of this agreement, which disputes or controversies cannot be or are not settled or adjusted in accordance with the prior section hereof, shall be submitted for decision to an arbitrator selected according to the procedure of the New Jersey State Board of Mediation whose decision shall be final.

3. Interpretation of contract terms on conditions of employment, demands for changes therein, grievability or arbitrability of a dispute, or other matters not reserved to management.

(Motor Coach Employees and Cleveland Transit System, exp. 6-63)

Any dispute, claim, grievance or difference between any employee or employees of the Cleveland Transit System who have chosen to be represented with respect thereto by (the union) on the one hand and the management of the Cleveland Transit System on the other hand which may arise out of or relate to any condition of employment contained herein, at the request of either party to any such dispute, claim, grievance or difference shall be submitted to an impartial umpire . . . provided that . . . 2. Such dispute, claim, grievance or difference shall be concerned with one or more of the following matters: a) The interpretation, construction, applicability or intent of any condition of employment set forth herein; b) Demands upon behalf of the employees or the management for any change in any condition of employment set forth herein to become effective July 1, 1961, and thereafter until changed by further order of the Transit Board; c) A determination as to whether a particular matter is or is not a grievance subject to the procedure provided . . .d) A determination as to whether or not a particular alleged difference, dispute, claim or grievance is properly referable to the Impartial Umpire; e) Any other matter which may arise by reason of the employer-employee relationship except matters reserved to the exclusive supervision, control and management of the Transit Board as provided (in the management rights section).

4. Discrimination or injustice

(Gulf State Paper Corp and Papermakers, exp. 10-62)

. . . the complaint may be referred to arbitration provided: 1) The dispute arises out of the Agreement. 2) It is considered a breach of the Agreement. 3) It is considered discrimination or injustice.

5. Local trouble of any kind

(Warrior and Gulf Navigation Co. and Steelworkers)

Should difference arise between the Company and the Union or its members . . . as to the meaning andapplication of the provisions of this Agreement, or should any local trouble of any kind arise, there shall be no suspension of work on account of such differences, but an earnest effort shall be made to settle such differences in the following manner (by the grievance and arbitration procedure).

Comment: There also was a provision excluding strictly management functions from arbitration. The employer contracted out work and subsequently - in part as a result - laid off some bargaining unit employees. Federal district and appeals courts upheld the employer's refusal to arbitrate the union's grievance, ruling that contracting out work was within the management function. But the U. S. Supreme Court sent the matter to arbitration on the ground that while the question of arbitrability is for the courts to decide, courts should not refuse to issue orders to arbitrate "unless it may be said with positive assurance that the arbitration clause is not susceptable to an interpretation that covers the asserted dispute. Doubts should be resolved in favor of coverage." (46 LRRM 2416)

6. Power to review reasonableness of penalty

(Clark Equipment Co. and AIW, exp. 4-65

The Company shall have the right to discipline (including discharge) any employee who instigates, participates in, or gives leadership to an unauthorized strike in violation of this Agreement. If the matter is submitted to arbitration, an Arbitrator shall have the power to review the reasonableness of penalties imposed under this section, except that he may order back pay only upon a finding of innocence.

7. "Grievance" limited to matters involving contract; arbitrator limited to grievances, unless parties agree to refer other matters

(U. S. Steel and Steelworkers, exp. 6-64)

"Grievance" as used in this Agreement is limited to a complaint or request of an employee which involves the interpretation or application of, or compliance with, the provisions of this Agreement . . . The Board shall have jurisdiction and authority only to interpret, apply, or determine compliance with the provisions of this Agreement and such local working conditions as may hereafter be in effect in the plants of the Company,

insofar as shall be necessary to the determination of grievances appealed to the Board. The Board shall not have jurisdiction or authority to add to, detract from, or alter in any way the provisions of this Agreement...

If the officers of the Company and of the Union shall so agree in writing, any request or complaint not a proper matter of grievance and thus not appealable to the Board, or other matter not covered by the procedures of Section 6 - Adjustment of Grievances - may be referred to the Board for determination upon such terms as the parties may mutually agree.

8. Detailed listing of matters subject to arbitration

(General Motors and UAW, exp. 8-64)

It shall be the function of the umpire, after due investigation and within thirty days after the submission of the case to him, to make a decision in all claims of discrimination for union activity or membership and in all cases of alleged violation of the terms of the following sections of this Agreement, and written local or national supplementary agreements on these same subjects: Recognition; Representation; Grievance Procedure; Seniority; Disciplinary Layoffs and Discharges; Call-In Pay; Working Hours; Leaves of Absence; Union Bulletin Boards; Establishment of New Plants; Strikes, Stoppages and Lock Outs; Wages, except paragraph (97); General Provisions; Apprentices - Represented; Skilled Trades; Vacation Pay Allowances; Holiday Pay; Paragraphs (79) through (79f) relative to procedures on Production Standards; and of any alleged violations of written local or national wage agreements.

(Comment: for listing of matters not subject to the authority of the arbitrators under the above contract, see clause on page 7.)

9. Incentive disputes

(Mosaic Tile Co., Zanesville, and Glass and Ceramic Workers)

The arbitrator shall only have jurisdiction and authority to interpret the agreement and apply it to the cases presented to him. He shall not change or modify this agreement, or have any authority in the making of a new agreement. He shall have no authority over wage rates established by this agreement, but shall have authority to arbitrate such wage rates, bonus rates and values, or incentive rates as involve changes of method or new operations or new or changed jobs arising during the period of this agreement.

10. Job classification

(Iron Fireman Mfg. Co. and IAM, exp. 4-64)

The Company will evaluate any new or changed job classifications as arising by application of the job evaluation formula . . . and forward the new or changed job description to the Union . . . In the event the Union disagrees with the evaluation made of such new or changed jobs as described, it may challenge the evaluation on the basis of the job evaluation

formula. The Company and the Union Representatives thereupon will meet for the purpose of reaching agreement. If no agreement is reached within thirty calendar days after receipt by the Union of the new or changed job description, the matter promptly will be referred to arbitration.

11. Job-rating disputes, which must be heard by industrial engineer or other qualified arbitrator

(Gardner-Denver Co. and IAM, exp. 10-64)

Except as provided in section (67) (see below), the paragraphs providing for arbitration shall not apply to the determination of wages, or the classification or wage rates of jobs, except where an alleged violation of this contract is concerned . . .

(67) If no agreement is reached on the job rating, the Union may take the "Classification Grievance" to arbitration following the method, procedures, and time limits specified . . . except that the arbitrator selected . . . shall be an industrial engineer or other person who is by experience qualified to employ recognized principles and techniques of job evaluation.

The arbitrator shall establish the questioned classification by employing recognized principles and techniques of job evaluation and shall establish such classification in line and by comparison with the existing job classifications of the Company. Such classification so established shall be final.

Matters NOT subject to arbitration

1. Addition to, subtractions from, or modifications of contract

(Clay Sewer Pipe Industry and Brick and Clay Workers, exp. 4-62)

. . . the arbitrator shall not have the power to add to, subtract from or modify any of the terms of this Agreement or any agreement supplemental thereto, nor to pass upon any controversy arising from any demand to increase or decrease any wage rates, excepting as provided in Article X of this agreement.

2. Contract negotiations

(Flour, Feed, and Cereal Employers Assn. and Grain Millers, exp. 7-63)

In the event this agreement or any such Supplemental Agreement is opened for negotiation the subject matter of such negotiation will not be required to be referred to arbitration.

3. General wage scale

(U. S. Rubber and Rubber Workers, exp. 6-63)

It is understood and agreed that the general wage scale shall not be subject to arbitration.

4. Disputes over terms of new contract

(LeTourneau-Westinghouse Co., Adams Div. and USA, exp. 1-64)

It is agreed that any differences arising incident to negotiations or terms of a new agreement are not covered by this section, the sole purpose of which is to make grievances arising out of and during the term of this Agreement subject to arbitration.

5. Issues over which a work stoppage has been called

(Firestone Tire and Rubber Co. and URW, exp. 4-63)

In the event there is any interruption in plant operations due to a stoppage of work or slowdown, the Company and the Union shall not consider the merits of that dispute, nor shall any arbitration proceed or continue on that matter until such time as the interruption has been terminated.

The term "slowdown", as used in this Agreement, shall be understood to mean an intentional reduction or restriction of production on the part of one or more employees below a reasonable production rate.

6. Job classification, rates

(Caterpillar Tractor Co., Joliet and IAM, exp. 1-65)

Disputes arising out of the establishment of job classifications and the rates therefore . . . will not be subject to the grievance procedure or arbitration.

7. New rates, changes in existing rates, new jobs, production methods or standards, or safety

(Clark Equipment Co, Battle Creek and AIW, exp. 4-65)

The arbitrator shall have no power to establish a new rate or to change the existing wage structure, or establish new jobs or change existing job content, or to decide any matter pertaining to production methods or standards or safety and health.

8. Business practices not directly affecting employees or their relations with supervisors

(Cincinnati Industries, Inc. and TWUA, exp. 1-64)

Changes in general business practice, matters involving capital expenditures, the opening or closing of new units, the choice of personnel (subject, however, to the seniority provisions), the choice of materials, products, processes and equipment, or other business questions of a like nature not having to do directly and primarily with the day-to-day life of the employees and their relations with their supervisors, shall not be the subject of grievances and shall not be arbitrable.

9. Subcontracting, layoff after notice, termination of contract, other matters outside of the contract, and management rights not limited

(Gulf Oil and Oil Workers, exp. 1-64)

Any question on any matter outside of this Agreement shall not be the subject of arbitration. It is specifically understood that the rights of management which are not limited by the provisions of this Agreement are not the subject of arbitration. The matters not subject to arbitration include, but are not limited to, the following: (1) The use of contractors and (2) the exercise of the Company's right to layoff after notice and the consequent right of either party to terminate as provided in the last paragraph of Stipulation No. 33 of even date herewith.

10. Production standards; pensions and insurance; SUB; waiver of reopening right - see p. 4, no. 8

(General Motors and UAW, exp. 8-64)

The Umpire shall have no power to add to or subtract from or modify any of the terms of this Agreement or any agreements made supplementary hereto; nor to establish or change any wage; nor to rule on any dispute arising under Paragraph (78) regarding Production Standards.

The Umpire shall have no power to rule on any issue or dispute arising under the Pension Plan, Insurance Program and Supplementary Unemployment Benefit Plan Section or The Waiver Section.

Any case appealed to the Umpire of which he has no power to rule shall be referred back to the parties without decision.

Limitations on arbitrator's power

1. Arbitrator may not alter, add to, or go outside contract terms; may not go beyond submission

(Bunker Hill Co. and Northwest Metal Workers, Ind., exp. 1-66)

The arbitrator shall have no authority to alter, add to, or go outside the terms of this Agreement. He shall not go beyond the submission and any case referred to him by either party of which he has no power or authority to rule shall be referred back to the parties without decision.

2. Company may not be overruled unless it violated express contract terms

(Great Western Sugar Co. and Teamsters, exp. 3-64)

The Board of Arbitration shall have no power to substitute its judgment for that of the Company and shall have no power to overrule a decision of the Company unless the Board of Arbitration actually determines that the Company has violated one or more of the express and specific terms or provisions of this Agreement.

The Board of Arbitration shall have no power to render a decision on any matter not specifically covered by the terms or provisions of this Agreement . . .

3. Back pay awards: limit to retroactivity

(American Radiator, Louisville, and Allied Trades Council, exp. 1-63)

Awards and settlements of grievances by arbitrators may or may not be retroactive as the equities of each case demand, but in no event in any award to be retroactive beyond the date on which the grievance was originally presented . . .

4. Production standards may be reviewed only as to whether sound engineering methods were used in setting or changing them, or what the change would have been under such methods if a "significant" change is disputed

(Wyman-Gordon Co., Ingalls-Shepard Div. and Boilermakers, exp. 11-63)

(b) Only disputes which may arise between the Union or employees and the Company which assert either (1) a violation by the Company of a specific provision of this Agreement, or (2) that cycles for a new job or cycles resulting from a significant change in work methods, equipment or work conditions on an existing job have not been properly set by the Company after a fair and adequate trial in accordance with sound industrial engineering methods as described in Section 1, shall be arbitrable. A significant change shall be one which results in a change in the original cycle of not less than 5%. The issue to be arbitrated under (2) above shall be whether or not the cycle for the new job or resulting from a significant change in the existing job have been properly made by the Com-

pany in accordance with sound industrial engineering methods as aforesaid, and if not, what the cycle in question should be under such methods; provided, however, that in cases involving a significant change made by the Company the issue subject to arbitration shall be whether or not such change has been made by the Company based on sound industrial engineering methods as aforesaid and what the change in the cycle resulting from such change only should be, and provided further that the Board of Arbitration shall not use past performance or past practice on jobs not set in accordance with industrial engineering methods in determining such grievances...

Arbitrability

1. Matter taken up through grievance procedure, including arbitration

(Western Union Telegraph and Communications Assn., Ind., exp. 5-64)

If any question arises as to whether a particular dispute is or is not a grievance within the meaning of this section, the question may be taken up through the grievance procedure and determined if necessary by arbitration . . .

2. Arbitrator has power to pass on any objection to jurisdiction

(Pacific Maritime Assn and Longshoremen, Exp. 7-66)

The arbitrators shall have the power to pass on any and all objections to their jurisdiction. If an arbitrator holds that a particular dispute does not arise under the Agreement, then such dispute shall be subject to arbitration only by mutual agreement.

3. Arbitrator determines if question of arbitrability is raised

(International Harvester and UAW, exp. 10-64)

If either party shall claim before the arbitrator that a particular grievance fails to meet the tests of arbitrability, as the same are set forth in this Article, the arbitrator shall proceed to decide such issue before proceeding to hear the case upon its merits. The arbitrator shall have the authority to determine whether he will hear the case on its merits at the same hearing in which the jurisdictional question is presented. In any case where the arbitrator determines that such grievance fails to meet said tests of arbitrability, he shall refer the case back to the parties without a decision or recommendation on the merits.

4. Determined by mutual agreement

(Dow Chemical Co., Midland, Mich., and District 50, UMW, exp. 3-65)

In the event a disagreement exists as to whether or not an issue will be arbitrated, the President of the Company or his appointee together with the Regional Director of the Union or his appointee shall determine whether or not the issue shall be arbitrated.

5. Determined by court unless parties agree otherwise

(Gulf Oil Corp., Port Arthur Refinery and Oil Workers, exp. 1-64)

Any dispute as to the arbitrability of a given matter shall be resolved by a court of competent jurisdiction and not by an arbitrator, unless the parties specifically agree otherwise in writing.

SENIORITY vs. ABILITY

A Practice Arbitration

Reprinted from
THE ARBITRATION JOURNAL, Volume 13, No. 3
AMERICAN ARBITRATION ASSOCIATION
477 Madison Avenue
New York 22, N. Y.

SENIORITY vs. ABILITY

A Practice Arbitration

EDITOR'S NOTE: *The practice arbitration has become one of the most effective instruments for training management and labor groups and for use in academic teaching at various levels. The case presented below, popularly called the Acme Office Machine Company Case, has been performed hundreds of times before organizations of all kinds and has proved to be one of the most popular. Most often, it is presented before an arbitrator who has no previous knowledge of the issues. In this way, maximum advantage is derived not only from role-playing, but also through audience participation. Members of the audience may take the arbitrator's oath and vote on a decision, thus comparing their own judgment with that of the professional arbitrator.*

The Arbitrator: Gerald Jones
Appearances: For International Association of Machinists, AFL-CIO
Michael Delaney, Grand Lodge Representative
Sam Wilson, the aggrieved employee
Ralph Brown, Shop Steward
Appearances: For Acme Office Machine Company
William Clayton, Personnel Director
Ben Hopkins, General Foreman
Joe Safford, an employee
Appearances: for the American Arbitration Association
Tribunal Clerk

TRIBUNAL CLERK: Mr. Jones, will you rise and take the arbitrator's oath?

(*Both rise and raise right hands*)

PAGINATION INCORRECT

Do you solemnly swear that you will faithfully and fairly hear and examine the matters in controversy and that you will make a just award according to the best of your understanding?

ARBITRATOR JONES: I do.

TRIBUNAL CLERK: This proceeding is under the Voluntary Labor Arbitration Rules of the American Arbitration Association. Arbitration was initiated by Demand for Arbitration in accordance with a collective bargaining agreement dated May 10, 1957. The Arbitration clause reads:

> Any dispute, claim or grievance arising out of or relating to this agreement shall be submitted to arbitration under the Voluntary Labor Arbitration Rules of the American Arbitration Association. The parties further agree that there shall be no suspension of work when such dispute arises and while it is in process of adjustment or arbitration.

The Demand for Arbitration, dated August 4, 1958, contains this statement of the grievance:

> Sam Wilson, classified as an inside repairman, with an hourly rate of $1.70, claims that he was discriminated against in that the Employer on June 18th promoted a man with less seniority to the position of outside serviceman, at a rate of $1.80 per hour. Mr. Wilson further claims he is entitled to the outside serviceman job by reason of his seniority and ability to perform the duties of that classification. He demands reclassification to outside serviceman plus 10¢ per hour for all hours worked since June 20th, the date on which he filed a grievance.

It was signed by Dave Edwards, President, Lodge 200, International Association of Machinists.

In reply to this Demand for Arbitration, Joseph Perkins, Manager of the Acme Office Machine Company, wrote the following letter to Mr. Edwards, a copy of which was sent to the American Arbitration Association:

> Dear Mr. Edwards:
>
> We have received a demand for arbitration asking that Sam Wilson be upgraded to outside serviceman and be granted the difference in pay between his present rate and that of outside serviceman since June 20.
>
> The company emphatically disputes such claim. Sam

Wilson is not qualified to perform the duties of outside serviceman and the company therefore felt justified in filling the vacancy in that position by promoting a qualified employee.

Very truly yours,

JOSEPH PERKINS, Manager

ARBITRATOR JONES: Thank you. Well, gentlemen, now I believe we can proceed. Since the union is the party who initiated this arbitration I suggest we hear from that side first. Mr. Delaney, would you care to make an opening statement?

DELANEY: I would, thank you. Mr. Arbitrator, this arbitration case has grown out of a grievance filed by Sam Wilson, a first class repairman employed by the Acme Office Machine Company. Mr. Wilson's grievance is that he was discriminated against in not getting an upgrading to the position of Outside Serviceman, when that vacancy occurred last June. Mr. Wilson is now at the top of the rate range for his present classification. This rate is $1.70 an hour, while the starting rate for Outside Serviceman is $1.80 per hour. Mr. Wilson therefore claims, in addition to the Outside Serviceman job, the difference of 10¢ per hour for every hour worked since the grievance was filed on June 20th.

The facts of the case are as follows: Early in June, an Outside Serviceman was inducted into the army and the vacancy was posted on the bulletin board on June 10th, in accordance with Article VII of the collective bargaining agreement. On June 11, Wilson bid for that job. One other bid was entered, by a man with less seniority. On June 18, the company promoted the man with less seniority. A grievance was filed on June 20th and after the company failed to give satisfaction during the preliminary steps of the grievance procedure a demand for arbitration was sent to the company on August 4th, in accordance with the collective bargaining agreement. My first witness, if there is no objection, will be Sam Wilson.

ARBITRATOR JONES: Just a moment, Mr. Delaney. Perhaps Mr. Clayton would like to make a brief opening statement before you introduce your first witness.

CLAYTON: If you don't mind, Mr. Arbitrator, I would just as soon wait with my opening remarks until it is my turn to present the company's case.

ARBITRATOR JONES: As you wish. Before we proceed, I think it might be a good idea to place the collective bargaining agree-

ment in the record, perhaps as a joint exhibit, if you gentlemen agree.

DELANEY: Yes, that's a good idea.

CLAYTON: I agree. I have a copy here of the agreement in printed form.

ARBITRATOR JONES: I will ask the Tribunal Clerk to mark it as Joint Exhibit 1. I think we can now proceed. Mr. Wilson, you may take the stand.

(*WILSON takes the stand and is sworn*)

TRIBUNAL CLERK: Do you solemnly swear that the evidence you are about to give will be the truth, the whole truth and nothing but the truth, so help you God?

WILSON: I do.

DELANEY: Please state your name, present job classification and rate of pay.

WILSON: My name is Sam Wilson. I'm a first class repairman at $1.70 per hour.

DELANEY: How long have you been with the company?

WILSON: About eight years.

DELANEY: Will you give a brief account of your progress with the company?

WILSON: Well, I started as a general helper. After about a year, I was made an apprentice to the typewriter repairman. I was moved around after that and learned to repair all the different types of machines the company handles. About two years ago, I was made a first class repairman and that's what I am now.

DELANEY: Did you take any special courses of training for your job?

WILSON: Yes. I took a course in machine shop practice in night school.

DELANEY: Did the Company know about your studies on your own time to improve yourself on the job?

WILSON: Yes. In fact, the company paid half the cost. That's the company policy. And when I got my certificate that I finished the course, a copy was sent to the personnel director.

DELANEY: Have you any evidence that the company appreciated your work as a first class repairman?

WILSON: Well, I got two merit increases, that brought me to the top of the rate range. I never heard any complaints about my work. In fact, I generally get the most complicated jobs that come into the shop.

DELANEY: What's your seniority status with the company?

WILSON: I have top seniority in my department and I'm about sixth or seventh in the company.

DELANEY: That means you have more seniority than any other first class repairman, doesn't it?

WILSON: That's right.

DELANEY: Have you ever been disciplined or have you ever had any complaints about your conduct at work?

WILSON: No. I get along OK with everybody.

DELANEY: Now tell us briefly about your bid for the Outside Serviceman job and what happened.

WILSON: Well, I've been waiting for an opening to get into that job because I'd like that kind of work and besides, it pays more money. Last May I found out one of the men in that department was quitting. The man actually left the first week in June and as soon as I saw a notice on the bulletin board, I put in for it.

DELANEY: And what happened?

WILSON: Nothing. The first thing I knew was that someone else got the job.

DELANEY: Are you qualified to do the work of an Outside Serviceman?

WILSON: Sure. In fact, the outside man fixes only the easy jobs. If there is a big job to be done he brings it back to the shop for us to work on.

DELANEY: That's all the questions I have to ask Mr. Wilson right now.

ARBITRATOR JONES: Mr. Clayton, would you like to cross-examine the witness now?

CLAYTON: Yes, I would, thank you. Mr. Wilson, you testified that you have been with the company for eight years. Where did you work before you came here?

WILSON: I was with the Erie Railroad.

CLAYTON: Doing what?

WILSON: Yard laborer.

CLAYTON: And where did you work before that?

WILSON: Before that I was working for a gas station.

CLAYTON: Were you selling gas?

WILSON: No. I changed tires and helped in the grease pit.

CLAYTON: What kind of jobs did you have before the gas station job?

WILSON: I helped on trucks and had other odd jobs.

CLAYTON: In your whole work experience, did you ever have an office job?

WILSON: No.

CLAYTON: What education have you had?

WILSON: One year high school. A few years ago I went to night school to learn machine shop practice.

CLAYTON: Did you ever have any experience in salesmanship or take any courses of training for selling jobs?

WILSON: No.

CLAYTON: During periods of unemployment, before you came to work for Acme, did you ever look for selling jobs or try to learn salesmanship?

WILSON: Well, when I wasn't working, I generally took the first job that came along, if the pay was right.

CLAYTON: But you never worked at selling or in clerical jobs.

WILSON: No, I never did.

CLAYTON: That's all the questions I have to ask Mr. Wilson.

DELANEY: I would like to call as my next witness Ralph Brown.

(*BROWN takes the stand and is sworn*)

TRIBUNAL CLERK: Do you solemnly swear that the evidence you are about to give will be the truth, the whole truth and nothing but the truth, so help you God?

BROWN: I do.

DELANEY: Please state your name and position in the shop.

BROWN: My name is Ralph Brown and I'm shop steward.

DELANEY: Are you familiar with the collective bargaining agreement and with this grievance?

BROWN: I am.

DELANEY: What does your agreement say about promotions and upgrading?

BROWN: The contract says that when there is an opening for a better job, notice should be posted on the bulletin board for three working days before it's filled. Men who think they qualify for it can then bid, and the man with the most seniority gets it, provided he's qualified.

ARBITRATOR JONES: Excuse me, Mr. Delaney, but would you care to identify the contractual provision you refer to?

DELANEY: Yes, I was coming to that. It is Article VII and it reads:

> "When any vacancy occurs within the bargaining unit, it shall be filled on the basis of seniority, provided the senior employee is reasonably qualified to perform the duties of that position. Notice of such vacancy shall be posted on the bulletin board at least three working days before the vacancy is filled. Employees shall have the right to bid for the job within that period of time. Bids submitted after the three days notice may be disregarded at the discretion of the employer."

Now, getting back to Article VII, Mr. Brown, did the company comply with its provisions when the vacancy occurred in the Outside Serviceman job?

BROWN: Well, they did insofar as posting notice is concerned. But Sam Wilson didn't get the job although he had more seniority than the man who did get it.

DELANEY: Is Sam Wilson qualified for upgrading?

BROWN: He is. He's the best repairman in the shop.

DELANEY: Does your company have a job evaluation plan?

BROWN: Well, a plan was drawn up a few years ago, before the union was recognized.

DELANEY: Has the union accepted the plan?

BROWN: Not completely. In every contract we negotiated, some changes were made in the way jobs were grouped into labor grades. But mostly we went along with it.

DELANEY: Has the Outside Serviceman job always been considered a higher job than the first class repairman?

BROWN: Yes. We never objected to that.

DELANEY: So that the next higher job for a first class repairman would be an Outside Serviceman?

BROWN: That's right. Promotion to outside serviceman is the only way a repairman can move ahead after he's at the top of the range for the first class repairman. The outside serviceman is the top job within the bargaining unit.

DELANEY: As shop steward, you are in a position to know all about the efficiency and conduct of Mr. Wilson, aren't you?

BROWN: Yes. I can tell you that there has never been any trouble with him. He always did a good job, got along all right with the men and with supervision and the fact that he gets the top rate for first class repairman proves it.

DELANEY: You don't have an automatic progression plan from minimum to maximum of the rate range in your shop, do you?

BROWN: Only partly. The way we work it, progression is automatic, by length of service to the mid-point of the rate range. But the rest of the way is by merit alone. The company has the right to give or refuse to give merit increases, and the union has a right to make a grievance of it if we suspect discrimination. In Mr. Wilson's case, there was no problem because he got his merit raises.

DELANEY: No more questions. Your witness, Mr. Clayton.

CLAYTON: Mr. Brown, you know Mr. Wilson well, don't you?

BROWN: Pretty well, yes.

CLAYTON: He's a member in good standing in the union?

BROWN: Yes.

CLAYTON: How long has he been a member of the union?

BROWN: Since we were recognized, three years ago.

CLAYTON: Does Mr. Wilson now, or did he ever, hold union office?

BROWN: No. I think he may be on some committees, but he's not an officer.

CLAYTON: Did he ever run for office?

DELANEY: Now just a minute, Mr. Arbitrator. I don't see how Mr. Wilson's running for union office has anything to do with this case.

CLAYTON: If you will just permit me to ask one or two more questions along this line I think it will be clear.

ARBITRATOR JONES: Well, I don't exactly see the pertinence of that question, but go ahead. I'll reserve decision for a few minutes.

CLAYTON: Thank you. I'll repeat the question. Did Sam Wilson ever run for union office?

BROWN: Yes. Once or twice. He didn't make it.

CLAYTON: Mr. Wilson is popular with his fellow workers, isn't he?

BROWN: Yes.

CLAYTON: But when it came to electing someone to represent the union, they voted for someone else, didn't they?

BROWN: Well, Wilson got a lot of votes. It's just that someone else got more votes.

CLAYTON: Don't you think it significant that his fellow workers considered that he lacked personal qualifications, in education and training, to be in a position where he would have to speak persuasively?

ARBITRATOR JONES: Excuse me, Mr. Clayton. I don't think I'm going to allow any more questions along that line and in coming to a decision on this case I'm not going to give any weight to evidence concerning Mr. Wilson's record as a union member at all.

BROWN: Well, even though no weight is going to be given to this subject, I don't mind telling you that nobody ever took a poll to find out why people vote one way or another. We have a democratic union and every member can vote as he pleases.

ARBITRATOR JONES: All right. You've answered the question. But I said I'm not going to allow any more arguments along that line. Please proceed with a proper course of cross-examination.

CLAYTON: Mr. Brown, are you familiar with the company's job evaluation plan and job descriptions?

BROWN: Yes.

CLAYTON: Did the union ever object to the accuracy of the job description of the Repairman, First Class and Outside Serviceman, which I now show you?

BROWN: No. But I think you're probably overstating the importance of the sales angle in the outside serviceman job.

CLAYTON: I have no further questions of this witness. Mr. Arbitrator, I would like to introduce for the record two job descriptions, one of the Repairman, First Class, and the other of the Outside Serviceman. Both are taken from the official job evaluation plan.

ARBITRATOR JONES: Have you any objection, Mr. Delaney, to receiving these exhibits?

DELANEY: No, subject, of course, to the point Mr. Brown just made about our never having negotiated those descriptions and our not agreeing that they are fully accurate.

ARBITRATOR JONES: Well, these are introduced as company documents and they will be considered as such. The clerk will mark them Company exhibits one and two.

JOB DESCRIPTIONS

Repairman, First Class

Inspects, adjusts, repairs, cleans and overhauls office machines such as adding machines, calculating machines, tabulating machines, bookkeeping machines, multigraph machines, mimeograph machines, typewriters or cash registers; diagnoses the defects in the machines by inspection, by disassembling the machines and examining the moving parts or other mechanisms, or by starting the machines in operation and testing for unusual sounds; removes, repairs and

replaces broken and worn out parts. Must be familiar with machine shop practice.

Outside Serviceman

Visits premises of customers to perform routine servicing operations on office machines such as adding machines, calculating machines, tabulating machines, bookkeeping machines, multigraph machines, mimeograph machines, typewriters or cash registers; cleans, oils, adjusts machines; if machines are merely out of adjustment, tightens, loosens, sets or otherwise adjusts gears, rollers, pinions, and other parts, using hand tools, such as wrenches, pliers, and screw drivers; if larger repairs are required, removes machine to the factory for overhaul by repairman, first class. Gives instructions to machine operators, explaining the action of the mechanism and otherwise shows how to avoid damage. Consults with customers on condition of office machines and recommends purchase of new and rebuilt machines to replace worn out and obsolete models. Sells service contracts for regular check-up of office machines.

ARBITRATOR JONES: You may call your next witness.

DELANEY: We have no further witnesses.

ARBITRATOR JONES: In that case, you may proceed, Mr. Clayton. I believe you want to make an opening statement.

CLAYTON: That is right. We will prove in this arbitration hearing that the company complied with all its contractual obligations and that we exercised management's prerogatives in a proper manner. The applicant for the job of outside serviceman who had most seniority was not qualified for that job. Consequently, we upgraded the less senior man, who *was* qualified.

The facts about the way the vacancy came about, our posting of a notice on the bulletin board, Mr. Wilson's bid, and his filing of a grievance are substantially as indicated in the union's presentation of the case. I won't take the time at this hearing to go over it again, except to emphasize that it shows how scrupulously the company fulfilled its obligations under the contract. I would also like to point out that as the union admits, we moved Mr. Wilson up pretty steadily and we gave him two merit increases last year. That shows we have nothing against him as an inside man and that accusations of discrimination are unjustified.

My first witness will be Mr. Ben Hopkins.

(*HOPKINS takes the stand and is sworn*)

TRIBUNAL CLERK: Do you solemnly swear that the evidence you are about to give will be the truth, the whole truth and nothing but the truth, so help you God?

HOPKINS: I do.

CLAYTON: Please state your name and position in the shop.

HOPKINS: My name is Ben Hopkins. I'm general foreman.

CLAYTON: Are you in the collective bargaining unit?

HOPKINS: No.

CLAYTON: Are you in charge of the inside workers, or do all employees in the bargaining unit come under your jurisdiction?

HOPKINS: I'm in charge of all, inside and outside.

CLAYTON: How long have you been with the company?

HOPKINS: About seven years.

CLAYTON: Were you hired as a foreman?

HOPKINS: Well, I was only a department foreman when I came in. I was promoted to general foreman a few years later.

CLAYTON: Were you general foreman when the job evaluation plan was drawn up?

HOPKINS: Yes.

CLAYTON: Tell us about it.

HOPKINS: Well, about four years ago, the company hired a firm of industrial engineers to draw up this plan for us because the company had been hiring and setting rates in a very haphazard way and there was dissatisfaction. These engineers drew up job descriptions for all the jobs and grouped them into labor grades with a rate range for each job. In this way, there was established an orderly way of progression and the men were satisfied they were treated fairly.

CLAYTON: Did the union accept this plan?

HOPKINS: It was already in effect when the union was recognized. But changes were made from time to time in negotiations. One change was that instead of merit increases all the way in the rate range, we agreed to length of service raises half way, and merit increases the rest of the way.

CLAYTON: What do you think of Sam Wilson?

HOPKINS: As a worker or personally?

CLAYTON: Well, both.

HOPKINS: As a worker, he's very good. That is, as a repairman. But I don't think he has the kind of personality for a selling job.

CLAYTON: What do you mean by that?

HOPKINS: He speaks in kind of a rough, uneducated way, and sometimes he's not very tactful.

CLAYTON: Will you describe the duties of an Outside Serviceman?

HOPKINS: When we get calls from customers telling us that their office machines are out of order, we send a serviceman out to fix the machines on the spot or to bring them in if they need major work. The serviceman has to get along well with people and do sort of a selling job, too. If a machine is too old to be fixed properly, the serviceman tries to take it as a trade-in on a new machine. It is especially important that he get along with the female employees of our customers. We once had a man who could never get past the receptionist when he visited a large office because he was such an objectionable character. Eventually, we got rid of him. The Outside Serviceman job is a sensitive spot for the company and we have to have a man we can be sure of.

CLAYTON: No more questions.

ARBITRATOR JONES: You may cross-examine, Mr. Delaney.

DELANEY: Mr. Hopkins, how long have you been supervising Sam Wilson?

HOPKINS: All the time I've been with the company, seven years.

DELANEY: Have you ever had any trouble with him?

HOPKINS: No, not real trouble.

DELANEY: What do you mean "not real trouble"? Has he been a good worker, or not?

HOPKINS: He's been a good worker. Once in a while there'd be an argument in the shop about something and I'd have to caution him to take it easy and quiet down. But I don't regard that as real trouble.

DELANEY: In your experience as a foreman, do you find that workers in the shop sometimes talk rough and use profanity?

HOPKINS: Oh, yes!

DELANEY: And you don't pay any particular attention to it, do you?

HOPKINS: Not unless it gets out of hand so that it might lead to violence.

DELANEY: In other words, a certain amount of unpolished speech, shall we say, is normal in the factory, isn't it?

HOPKINS: Yes, a certain amount.

DELANEY: When things go wrong in the shop, do you sometimes do some cursing yourself?

HOPKINS: It happens sometimes, but not often.

DELANEY: But when you're outside the shop, particularly in the presence of ladies, you behave like a gentleman, don't you?

HOPKINS: Yes.

DELANEY: Then why do you doubt that Sam Wilson would exercise the same discretion in the office of a customer?

HOPKINS: It isn't only a matter of cursing. Wilson doesn't have enough education. He just doesn't have the personality for getting along without arguments. And the way he talks would be kind of conspicuous in an office. He just hasn't got what it takes to be a salesman.

DELANEY: Are you familiar with the job description of Outside Serviceman, as introduced by Mr. Clayton as a company exhibit?

HOPKINS: Yes, I am.

DELANEY: Do you find anything in that job description about education?

HOPKINS: Well, no. That's not a description of the necessary qualifications for the job. It's just a description of what a man actually does.

DELANEY: But the company never saw fit, in writing that job description, to stress educational background.

HOPKINS: No. As I say, it isn't that kind of a job description.

DELANEY: Have you ever hired Outside Servicemen?

HOPKINS: Do you mean whether I ever hired any personally?

DELANEY: Yes.

HOPKINS: I never hired any directly, but when the Personnel Department is considering a man they usually send him along to talk to me as well as to others. And then I usually tell Mr. Clayton what my impressions were.

DELANEY: Now, Mr. Hopkins, getting back to an earlier remark, you said that Sam Wilson hasn't got what it takes to be a salesman. I believe those were your exact words. How do you know he wouldn't learn what is necessary if you gave him a chance?

HOPKINS: I just don't think he's got the aptitude for it.

DELANEY: Mr. Hopkins, has it ever happened, in the past, that you promoted a man to the next higher job even though he wasn't fully qualified at the time of promotion?

HOPKINS: Oh, yes, that happens often!

DELANEY: You do that because you believe in giving a man a chance to grow into the higher job, isn't that right?

HOPKINS: Yes, when I think he has it in him.

DELANEY: But you refused to give Wilson that chance. You just took it for granted that he would talk and act outside the job just as he does inside. You assumed he wouldn't learn and you refused to give him a chance.

HOPKINS: Well, as I say, the Outside Serviceman job is too sensitive. It would be too risky. We would be losing accounts with every bad impression Wilson would make.

DELANEY: No more questions.

CLAYTON: My next witness is Joe Safford.

(*SAFFORD takes the stand and is sworn*)

TRIBUNAL CLERK: Do you solemnly swear that the evidence you are about to give will be the truth, the whole truth and nothing but the truth, so help you God?

SAFFORD: I do.

CLAYTON: Mr. Safford, how long have you been with the company?

SAFFORD: About three and a half years.

CLAYTON: What was your job classification until last June 18th?

SAFFORD: I was a Repairman, First Class. I'm now an Outside Repairman.

CLAYTON: How much education have you had?

SAFFORD: High school and one year of college.

CLAYTON: Where did you work before coming to Acme?

SAFFORD: I worked in the complaint and adjustment office of a department store.

CLAYTON: Will you describe briefly your duties and length of service with the department store?

SAFFORD: Well, when a customer complained about the quality of something she bought, I interviewed her to get the facts and followed it up to see what could be done to make the adjustment. Sometimes it was a matter of getting the article exchanged, and sometimes it involved a repair job. I followed the case up by seeing that the customer was satisfied, and wrote up reports for the buyers in cases where mechanical defects or poor workmanship showed up. I was with the department store for three years. I had to quit and

move here because the winters were too severe for my wife and the doctor advised us to move to another area.

CLAYTON: In other words, your previous employment experience was on a job that required contact with the public and exercise of considerable tact.

SAFFORD: That's right.

CLAYTON: I have no more questions. Mr. Delaney, do you want to cross-examine?

DELANEY: No cross-examination. Joe Safford is a good union member and would no doubt make a competent Outside Serviceman. We are not disputing that. But I think it is also indisputable that he hasn't got the seniority.

CLAYTON: That is our case, Mr. Arbitrator.

ARBITRATOR JONES: If there are no further witnesses, we can proceed with summations. I suggest the same order as before. Mr. Delaney first.

DELANEY: When the current collective bargaining agreement was negotiated, the company agreed to the principle of promotion from within. This was stated in Article VII which says:

> "When any vacancy occurs within the bargaining unit, it shall be filled on the basis of seniority, provided the senior employee is reasonably qualified to perform the duties of that position. Notice of such vacancy shall be posted on the bulletin board at least three working days before the vacancy is filled. Employees shall have the right to bid for the job within that period of time. Bids submitted after the three days notice may be disregarded at the discretion of the Employer."

We believe that in ignoring Sam Wilson's bid, the company violated the quoted section of the agreement. I want to call particular attention to the phrase "provided the senior employee is reasonably qualified . . ." The contract does not say the employee must be fully qualified, and it does not say that he must be perfectly suited to the job he wants. To be reasonably qualified means to have most of the skills required, and to be capable of developing in the job.

In the cross-examination of Mr. Hopkins, the general foreman, it was established that the company often promoted men when they had potentialities for the higher job, and gave the men a chance to develop those potentialities by experience. No such chance was given Mr. Wilson.

What we have here is a situation in which two men applied for a job which involved two main elements: mechanical ability as an office machine repairman, and an element which has been called salesmanship. Neither of the two men were *perfectly* well qualified, because neither had the identical previous experience required by the company. Both were "reasonably" well qualified in that both had more than the required mechanical ability and both could develop the salesmanship. Under such conditions, the collective bargaining agreement says clearly that upgrading shall be on "the basis of seniority." But the company didn't do that. They passed up the senior man, a man who admittedly is the best man in the shop, and they promoted a repairman with less seniority.

In pre-judging Mr. Wilson unfairly, and in not giving him a chance which his long service entitled him to—the company has breached the collective bargaining agreement. We therefore demand that the company live up to its contractual obligations and give Mr. Wilson the Outside Serviceman job with the difference in pay, retroactive to the date of filing this grievance.

ARBITRATOR JONES: All right, Mr. Clayton, now it's your turn.

CLAYTON: I would like to state at the outset that I regret exceedingly the necessity of making an issue of the personality of any employee, especially an employee who has been an asset to the company and whose good will and continued service with us we would like to retain. If we have done this, it is only because there was no other way to justify our decision. We feel strongly that we cannot risk the loss of business which would result from Wilson's tactlessness or inefficiency as a salesman.

Perhaps a few words about the kind of business we are in would help clarify the situation. Ours is a competitive business. We try to write service contracts with large offices, so that our servicemen get a foot in the door, so to speak, and get a chance to sell new machines. We lose money on the service end of our business. Obviously, paying servicemen at a rate of $1.80 an hour and up, we can't make a profit on just servicing those machines. It is only when a serviceman can get an order for new machines or for major repair jobs, that he is pulling his own weight.

Even when we write service contracts on a monthly basis, at a loss, as I indicated, we have no guarantee that the customer will buy from us when he needs new machines. He is visited daily by our

competitors who try to give him more favorable terms. So our servicemen have to be on their toes at all times and they have to be of the best personality for that kind of work. A single mistake, the loss of a single account, can be costly to the company and can result in loss of jobs among the inside crew.

What does the evidence produced here show? It shows that the company has observed all of its contractual obligations toward the union and toward the employees. With respect to Sam Wilson, the company has gone beyond contractual obligations. It was brought out in the examination of witnesses that Sam Wilson got two merit increases last year. Our contract permits management to decide whether or not increases should be granted from the mid-point of the rate range. We gave such increases to Wilson voluntarily, because we believed he deserved them. This should indicate that we have no ill feelings toward that employee.

The two men who applied for this job were *not* both reasonably well qualified. They were both over-qualified as far as mechanical ability is concerned. With respect to personality and an aptitude for salesmanship, one man—Joe Safford—the man we promoted, showed signs of having what it takes. The other man, Mr. Wilson, showed definitely that he lacks what it takes. If the job involved were one in which a mistake or two could be discovered before much damage was done, we might take a chance. But on the Outside Serviceman job, we learn of mistakes only when our business disappears. That would be too great a risk to take.

I therefore ask the arbitrator to rule that in passing over the man with most seniority, the company hired the only man available who was reasonably qualified for that job. In doing so, the company acted in its own best interests and in the best interests of the employees as well.

ARBITRATOR JONES: Thank you, Mr. Clayton. Well, gentlemen, we seem to have come to the end of this hearing. Are you all satisfied that all your evidence, witnesses and arguments have been presented?

(*general nodding of assent*)

In that case, I will declare the hearing closed.

TRIBUNAL CLERK: According to the Voluntary Labor Arbitration Rules, a written award will be rendered within thirty days.

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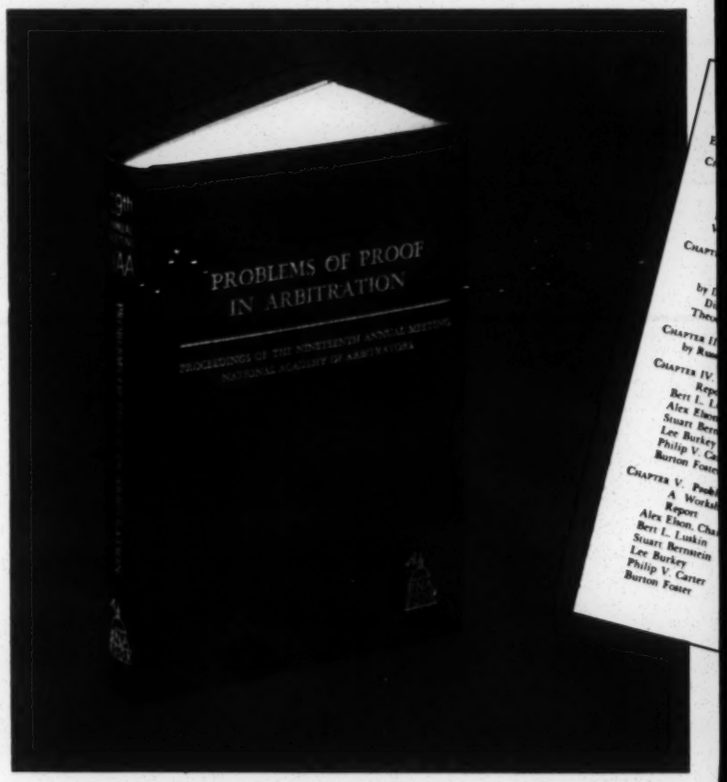

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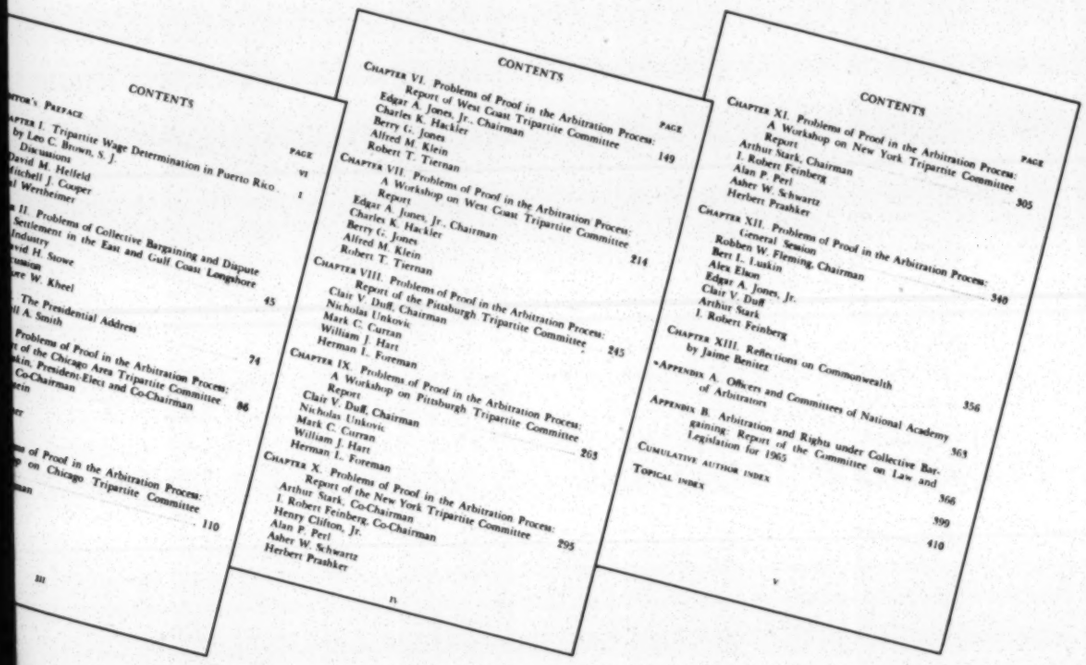
Among the other papers considered by the Academy and included in this volume are Father Leo C. Brown's examination of the problems of wage-setting industry committees in Puerto Rico, an address by Dr. Jaime Benitez, President of the University of Puerto Rico, entitled "Reflections on the Commonwealth," a report on collective bargaining in the East and Gulf Coast longshore industry by David H. Stowe, and Russell A. Smith's Presidential Address.

Father Brown, who has served as a public member and chairman on several tripartite industry committees, proposes that the Secretary of Labor authorize discretionary reviews of the minimum wage recommendations of industry committees, since such committees are capable of serious economic error. The functioning of industry committees, he adds, should also be studied and evaluated under congressional auspices. Father Brown believes that the Wage and Hour Division should use subpoena power to gather all relevant economic data prior to industry committee hearings and should make such data available to the committees. And he says that Division economists should provide examples of comparative economic costs as a foundation for the economic judgments the committees are required to make.

Dr. Benitez surveys the economic and social progress of Puerto Rico to date and recommends that proposals for change in the Commonwealth should come from the people, that common commitment of the United States and the Commonwealth to human rights, democracy, and the goals of the Great Society program be re-affirmed, that there be flexibility in applying the principle of bilateralness, and that the term Free Associated State, rather than Commonwealth, become the accepted expression for Puerto Rico.

Mr. Stowe, who served as director of a study committee established by the Labor Department as part of the settlement of the 1962 strike in the longshore industry, finds evidence of the chaotic condition of the industry in the fact that six times since the enactment of the Taft-Hartley Act it has been necessary to use the injunction procedures of the Act. He describes how the Labor Department went about conducting a study of the longshore industry in the East and Gulf Coast ports, as required by the terms of the Morse Board settlement, discusses the findings and recommendations of the study committee, reviews the 1964 industry negotiations, and examines the prospects for fruitful collective bargaining in the industry in 1968, when the present contracts expire.

In his Presidential Address, Russell A. Smith takes note of the criticism of arbitrators and the arbitration process made by Judge Paul Hays in his Storrs Lectures at Yale University, suggests that research to prove or disprove Judge Hays' charges be undertaken, and outlines the kind of research he believes necessary.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PROCEEDINGS OF THE 18TH ANNUAL NAA MEETING, 1965. Topics include: problems in opinion-writing; procedures under the Railway Labor Act; how to maintain an orderly and efficient arbitration hearing; the desirability of restricting the scope of arbitration; the automated arbitrators; and the public interest.

LABOR ARBITRATION: PERSPECTIVES AND PROBLEMS (Proceedings of the 17th Annual NAA Meeting, 1964). Examines critics' complaints that arbitrators charge too much, take too long, and produce opinions burdened with unnecessary legalism and unsought advice. Experts report on detailed studies of these problems, and make suggestions for overcoming criticism that is found to be valid.

LABOR ARBITRATION AND INDUSTRIAL CHANGE (Proceedings of the 16th Annual NAA Meeting, 1963). Leading arbitrators discuss the problems of merging seniority lists, the rehabilitation of distressed grievance procedures, automation and job evaluation, the right of intervention, and the remedy power. Also included is an address by the Hon. Willard Wirtz, Secretary of Labor.

COLLECTIVE BARGAINING AND THE ARBITRATOR'S ROLE (Proceedings of the 15th Annual NAA Meeting, 1962). Topics discussed: legal principles and effective arbitration, labor arbitration in the federal courts, neutral consultants in collective bargaining, silent contracts vs. express provisions, gamesmanship in labor arbitration, how arbitrators decide cases, employee job rights vs. employer job controls, and the development of qualified arbitrators.

ARBITRATION AND PUBLIC POLICY (Proceedings of the 14th Annual NAA Meeting, 1961). Considers the Supreme Court's landmark decisions in the Warrior, American, and Enterprise cases; due process and fair procedure in labor arbitration; arbitrators as neutrals; past practice in the administration of collective bargaining agreements; and the factor of consensus in labor relations.

CHALLENGES TO ARBITRATION (Proceedings of the 13th Annual NAA Meeting, 1960). Explores procedural and substantive challenges to labor arbitration. Among the questions studied are the steel strike of 1959, the problem of subcontracting, direct criticism of the arbitration process, and use of voluntary arbitration in contract disputes.

ARBITRATION AND THE LAW (Proceedings of the 12th Annual NAA Meeting, 1959). Assesses probable effect of the Supreme Court decision in the Lincoln Mills case upon established systems of industrial self-government. Also included: a survey of the role of the law in arbitration today, a description and analysis of the General Motors-UAW umpireship, and a commentary on the arbitrator's role in world affairs.

THE ARBITRATOR AND THE PARTIES (Proceedings of the 11th Annual NAA Meeting, 1958). In a "tripartite symposium," representatives of unions and management evaluate arbitrators and the arbitration process, and are themselves evaluated by professional arbitrators. Other topics: due process in arbitration, potential uses of grievance and arbitration procedures in public employment, the Chrysler-UAW umpire system, and the current crisis in American unionism.

CRITICAL ISSUES IN LABOR ARBITRATION (Proceedings of the 10th Annual NAA Meeting, 1957). Highlights some of the most difficult arbitration problems in the field of industrial relations. Included are: a study of experience in reinstatement cases, a vigorous presentation of industry and labor viewpoints on the arbitration of disputes involving incentive standards, and a critical view of the trend toward technicalities in arbitration.

MANAGEMENT RIGHTS AND THE ARBITRATION PROCESS (Proceedings of the 9th Annual NAA Meeting, 1956). Provides guides to the solution of problems involving: the pros and cons of seniority vs. ability, the technicalities of methods and standards engineering, job classification difficulties, varying concepts of industrial discipline, and hard-to-answer questions of arbitrability and jurisdiction.

ARBITRATION TODAY (Proceedings of the 8th Annual NAA Meeting, 1955). Contains the practical advice and guidance of a panel of top-flight specialists on such problems as wage incentives, arbitrability of grievances, piece rate provisions, grace periods, job evaluation, seniority claims, ability disputes, security risk cases, reinstatement and back pay, "wildcat" strikes, "bumping" complications, and job reassignments.

THE PROFESSION OF LABOR ARBITRATION (Selections from the proceedings of the first seven Annual NAA Meetings, 1948-54). Discusses such questions as: Where is arbitration going? How can arbitration best help effectuate the labor contract? Is the labor arbitrator expendable? What is the heart and essence of the arbitration process? What is the place of law in labor arbitration? How can labor disputes in major industries best be handled? How should responsibility for labor policy be allocated as between state and federal authorities? What social, political, economic, and technological trends seem likely to affect labor arbitration, and how?

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AGREEMENT BETWEEN ---

The Billings & Springer
Company

and

International Brotherhood
of Boilermakers, Iron
Shipbuilders, Blacksmiths,
Forgers and Helpers

AFL-CIO

Hartford, Connecticut

Article I - Purpose

1. The general purpose of this Agreement is to promote the mutual interest of the Union and the Company, to provide for the operations of the plant of the Company under methods which will further to the fullest extent the safety and welfare of the employees, economy of operations, quality and quantity of production and minimization of waste, to establish rates of pay, hours of work, and to avoid interruptions of work.

Article II - Recognition

1. The Company recognizes the Union as the sole collective bargaining agency for all production and maintenance employees employed by the Company at its Hartford, Connecticut plant, excluding all office and clerical employees, salesmen, timekeepers, foremen and all supervisors as defined in the National Labor Relations Act.

Article III - Management

1. The Management of the Company, and the direction of the working force, including the right to plan, direct and control plant operations, hire, suspend or discharge for proper cause, or transfer or relieve employees from duty because of lack of work, or for other legitimate business reasons, and the right to introduce new or improved production methods or facilities, is vested exclusively in the Company; provided that nothing contained herein shall be used for the purpose of discriminating unfairly against any member of the Union. This Article shall be applied in conformance with the other provisions of this Agreement.

Article IV - Grievance Procedure

1. A grievance is any difference of opinion or dispute between the Company and any employee or Union representative regarding the interpretation or operation of any provision of this Agreement, and shall be dealt with as follows:

   a. The Grievance is to be first taken up with the foreman of the Department involved by the aggrieved employee or the Department Steward, or both.

   b. If the grievance is not settled in one (1) above within two working days then it shall be submitted in writing to the Department Manager and taken up with the Personnel Manager and the Union President, Department Steward and the Business Agent. If no settlement is reached, a conference with the Company's Executive in charge of

negotiations, or his representative, will be arranged as soon as possible and in no event later than one week.

c. If the conferences do not satisfactorily settle the grievance then it shall be submitted to arbitration as herein provided, and provided such request is made in writing.

Article V - Arbitration

1. In the event that both parties fail to adjust any controversy arising out of this Agreement over wages, hours, or working conditions, or the interpretation or application of this Agreement, the Union and the Company hereby agree to submit for arbitration such grievances to the Connecticut State Board of Arbitration and Conciliation and its decision shall be final and binding until the expiration of this Agreement or any extension thereof.

Article VI - Seniority

1. Seniority shall be observed on a basis of accumulated service in any one department and shall not begin until after twelve (12) months of employment in any one Department. These Departments, sub-departments, and groups, to be in accodance with the master seniority list mutually agreed upon by the Company and the Union and maintained in the Company's Personnel Office, copy of which is supplied to the Union.

2. The Company shall also keep posted a seniority list based upon Company records showing the date of last hire, said seniority list to be correctly revised at thirty (30) day intervals.

3. When conditions warrant a decrease or increase in the number of employees, the following factors shall apply:

   a. Seniority (Department-Wide)

   b. Ability

   c. Competency to perform the work

   Where ability and competency are substantially equal, seniority of service shall govern.

Article VII - Promotions

1. In filling new jobs or vacancies of a permanent nature within a department, the Company shall post such vacancies, including classification number, in all departments for a period of two (2) full working days. Employees interested in applying for said positions must apply in writing within five (5) working days with the Personnel Manager.

2. A thirty (30) day trial period shall be given to all employees transferred to a job in a Department other than their own, without loss of seniority providing such employees are transferred before the end of the following month from the date of layoff.

Appendix A - Wage Rates

All employees covered by this Agreement shall receive an increase of .06¢ per hour May 1, 1963 and an additional .05¢ per hour May 1, 1964, except that Indentured Apprentices shall receive the increases according to the provisions of their contract.

The following wage schedule will become effective on the date shown

Die Department	May 1, 1963	May 1, 1964
Die Sinker - A	3.12	3.17
Die Sinker - B	2.85	2.90
Die Sinker Apprentice	per scheduled contract	
Trimmer Die Maker	2.82	2.87
Machine Operator	2.52	2.57
Die Room Machinist	2.79	2.84
Forge Department		
Hammerman - 1500-2500 lbs.	2.80	2.85
- 1200-1499 lbs.	2.66	2.71
- 800-1199 lbs	2.61	2.66
Hammerman Trainees - 1st 60 days	2.31	2.36
Upsetter Operator	2.60	2.65
Bulldozer	2.41	2.46
Set-up (Press)	2.36	2.41
Coin Hammer & U-Bolt Flattener	2.41	2.46
Yard Clerk & Stock Painter	2.41	2.46
All Bending & Presswork Operators	2.31	2.36
Heater	2.31	2.36
Wheelabrator Operator	2.21	2.26
Press Cut-off Saw & Floormen	2.16	2.21
Furnace Tender	2.71	2.76
Janitor	2.06	2.11
Fork Lift Operator	2.31	2.36

See Page 19

The WISCONSIN STATE EMPLOYEE

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Those Who Serve . . .

THE LATE Governor Julius P. Heil used to go all over the country selling Wisconsin cheese. This cheese is right good cheese; there is no better. On the other hand Mr. Heil was never known to brag about Wisconsin's reputation for good government.

Succeeding governors, to their credit, besides promoting the great dairy industry of this state, have also, on occasion, commended the industry and ability of the public servants who have made Wisconsin state government a model in this nation.

We wonder, however, whether the great taxpaying public in this state truly understands and appreciates the valuable resource it has in its honest, graft-free, and efficient state government. Maybe it's a case of being too close to the woods to see the trees. Good government is simply taken for granted. There is no ten per cent levy on state employees' salaries by the political party in power; such a thing is unheard of in Wisconsin. Yet it happens in many states. And we can't remember when any large scale graft or corruption was uncovered in state government. By and large the taxpayer gets a dollar or more of honest service for every dollar he pays in taxes.

However, the same public complacency which takes top-notch administration and honest, efficient service for granted also may lead to its undoing.

When the people of this state and their elected representatives begin to take the great human organization, on which good service depends, too long for granted; when it is deemed too expensive to meet the salary competition of private employers; and when the philosophy prevails that proposes to start checking inflation somewhere, and that somewhere happens to be the salaries of civil servants and teachers, then the service indeed will have started downhill.

Some economic facts that can't be overlooked are these. The employment market is highly competitive. Private and public employers compete with each other for capable workers. Salaries, retirement pensions, and fringe benefits are major factors in job decisions. Anybody with good common sense and anything at all on the ball works for the employer who does best by him. The state itself is a large employer and faces the same kind of competitive labor market every other employer faces. In order to hold its own in this kind of a market the state must do as well or better than the market.

The fact is the state is doing neither.

And so the state service has lost many of its best people in the interval between sessions of the legislature.

This loss and the resultant deterioration of the service between sessions of the legislature is perhaps inherent in the nature of state government. The legislature establishes a budget and sets salaries and working conditions for a period of two years. While the law permits some flexibility in the interim, state officers charged with the responsibility of adjusting salaries in the absence of the legislature have been reluctant to act, not wishing to commit the incoming legislature to certain expenditures made in the interim.

With the legislature once more in session. civil servants, teachers, and other employees of the state are hopeful that prompt action will be taken to correct injustices and inequalities in compensation which have arisen since 1951. Such adjustments will go a long way toward continuing the high level of public service in this state which has been the envy of the nation.

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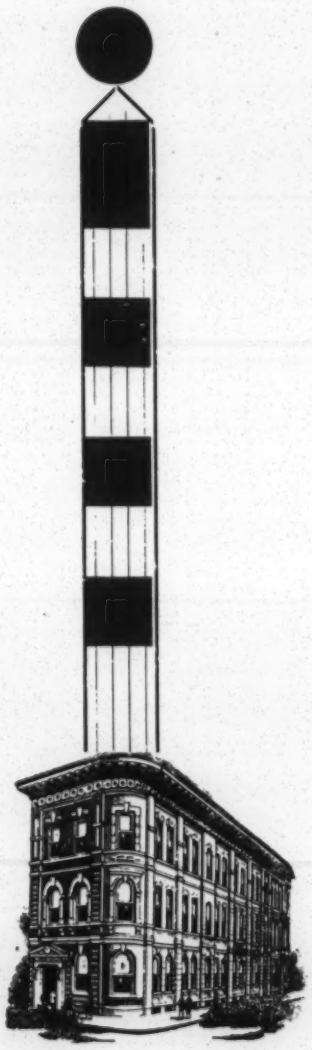

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Salary Committee Reports State Salaries Lag 15 Per Cent —

For Specific Recommendations See Page 10.

State Employees Ask $37.50 Average Increase

APPEARING before the state personnel board at a public hearing on February 6, 1953, the salary committee of the Wisconsin State Employees Association made the following general statement and recommendations relating to state civil service salaries:

"The 1947 legislature acknowledged that compensation schedules for state civil service employees were in serious need of overhauling. By authorization of that legislature an expensive professional survey of the entire classification and compensation plan was made during the late months of 1947 and was adopted and put into effect in June 1948. The results of that survey and the resulting increases in salary ranges were accepted gratefully and generally acknowledged as fair with one exception. Because of the amount of money involved, it was not deemed possible to keep the employees in the same equivalent position in the revised salary range as they occupied in the old range. For example, employees with many years of experience who had attained the top of their salary range as acknowledgment that they had reached top experience and efficiency for their job were required to drop back with their juniors and in some cases the very beginners and wait more years to again attain what was then acknowledged as the fair rate for representative top performance.

In October and November 1950 the Bureau of Personnel made a wage and salary survey of public employers and private industry in the various areas of Wisconsin to draw a comparison between their compensation for jobs which were comparable to state civil service jobs. With that and other evidence that the state compensation plan was rapidly falling behind, Governor Kohler made appropriate recommendations to the 1951 legislature.

Although the original recommendations were modified, some adjustment was made by the legislature. The increases were welcomed but were deemed to be inadequate to maintain the level of earning power established by the schedule adopted in June 1948. Certainly no one represented that such adjustments pushed state salaries ahead of those shown in the Bureau's 1950 survey.

Following its established practice, the Bureau of Personnel in October and November 1952 again surveyed other public and private employment rates in the same geographical areas and the same job classifications as covered in their 1950 survey. This provides a fair and accurate basis to indicate what has happened to wage schedules in industry in Wisconsin and in jobs which are comparable to a representative sample of state civil service jobs.

A careful analysis of the 1950 and 1952 Bureau's surveys reveals that during the two year period rates increased 14½% on the average in the establishments and jobs surveyed.

Presumably the purpose of these surveys is to guide those whose responsibility it is to keep the civil service compensation schedule current and in accord with market conditions in general. Presumably the survey would influence the recommended schedules for state employees for the 1953-55 biennium.

The Bureau recognized that in *many* of the surveyed establishments *further* basic increases would be granted in the eight months period between the date of its survey and the statutory July 1953 date that new state schedules would put into effect. Accordingly, it was the Bureau's position that it be given until a date later than the convening of the legislative session to submit its recommendations so it could incorporate the latest fluctuations with the results of the survey.

For example, the City of Milwaukee has increased all salaries by 7 to 8% since the date of the survey; Milwaukee Gas and Light Company granted a 6% increase to all its clerical workers in January. A check of all surveyed establishments will show that the number, who have or will before July of 1953, make further increases will substantially affect the survey findings.

The survey's *present figures* show the 14½% average increase. During this same period state employees have received $11 per month cost-of-living bonus adjustment which represents an increase of between 4 and 5%. When a tabulation is made including the later increases in the surveyed establishments, the disparity will be considerably greater.

Salaries in an Economy Budget

In the budget recommendations made to the 1951 legislature a reasonable attempt to provide *fair* adjustments in state employees' compensation was made. Although the amounts acknowledged by the administration as warranted had to be modified, a substantial adjustment was made.

With a $40,000,000 surplus to start the 1951-53 biennium it was not so difficult to treat the salary problem with reasonable fairness.

Because a large part of the previous general fund surplus has been used, the prevailing desire of the state's administrators is to keep the budget for the 1953-55 biennium within the state's income provided under the present tax laws. This objective is perfectly reasonable and proper. Toward that objective, it has been stated that departmental requests have been scrutinized and extravagance eliminated, services re-examined and some curtailed or eliminated; some groups or individuals are asked to bear the cost of services conducted for their specific benefit. Every state employee is called upon to exercise greater skill and diligence in the administration of the state's functions under a budget of this kind.

Certainly no state employee can find logical objection to such a program. It is the proper function of the state administration and legislature to act with these objectives in mind.

No one however has stated that the

(continued on page 14)

Capitol Policeman Forrest Manson congratulates Governor Kohler on his re-election.

Capitol Policemen Must Know the Answers---

. . . *Or Where to Find Them*

By LUCILLE BYSTROM

GET out the bathroom scale, Herman; we've got to weigh the capitol."

Either Herman is just plain stubborn or he can't find the scale, because the policemen and guides at Wisconsin's state capitol still are forced to admit they do not know how much the building weighs. And believe it or not, it is one of the most frequently asked of the hundreds of questions they hear daily.

Subjects range from directions, which is easily understandable, to a wide variety of inquiries with no apparent connection with the location.

"Which door leads to the Capitol Square?" asked one visitor, and another, "Where is the front door?" Or, "Where is the farewell department?" which turned out to be the welfare department.

What a Hay Loft!

One rural resident stood mutely gazing up toward the top of the rotunda and then thoughtfully exclaimed "Gee, this sure would hold a lot of hay."

Two out of town visitors were visibly disappointed because they received an unfavorable reply to their eager, "Which floor is the state fair on?"

Sometimes it is more than the question which stumps the experts. A well dressed woman approached a guide one day and asked, "Which department has the snakes?" (the guide could scarcely refrain from making a 'wise-crack', but he let it remain a mental joke.) He referred her to an entomologist on the fourth floor and showed her to the elevator nearest her destination. But she would have none of that transportation, and started a weary trek up the steps.

A court is synonymous with prisoners in many minds, and a timid lady whispered to the tour guide as they stepped into the supreme court chamber, "Where do they keep the prisoners?"

Youngsters are particularly impressed with the size and grandeur of the beautiful building. It is not uncommon to hear them discuss the murals in the dome. The most frequent interpretation is that the figures are angels or "Jesus." "Look," one little girl exclaimed with an attempt to suppress her excitement, "There's Jesus up there."

Open Your Mouth

Standing hand in hand, a little boy and girl looked raptly toward the towering arches. Said the boy, "Sister, open your mouth, your head will tip back farther."

Guides and policemen can always spot a Southerner visiting Madison because they refer to the building as the "state house." The rural tourist invariably uses the term "town hall."

Many persons take the state building for granted and believe that all government springs from within its walls. Thus they seek to pay their water bills, obtain marriage licenses and even divorces. Then there was the justice of the peace from a small community who had fined a motorist for driving without proper license plates, and didn't know what to do with the money. It was a state law violation and he was determined to see that the state got the money. The guide was perplexed momentarily, because this was a new one posed for his solution. He suggested the man go to the state treasurer's office. If that was not right, the information would be available, he explained.

A few minutes later he learned he had struck it right on the head. The JP returned to say that the money went to the treasurer. This is an example of the question and answer program of the guides. They may not know the answer, but they are expected to know where the information can be obtained.

Where Is Kenneth?

Among the vague questions are such as this one "Where does Kenneth work?" Kenneth's last name, his duties or any further identification was lacking. In fact the man looking for Kenneth wasn't interested in these things. He just wanted to talk to Kenneth.

The interior of the great stone and marble structure is not all that evokes unusual queries. One day a woman

(*continued on page* 12)

Capitol policemen who are also designated as guides are from left to right. Epha Wright, Robert Sullivan and Ray Hustad.

All This Bill Does . . .

The following list of bills will be of interest to every civil service employee. The bills have been introduced in the Wisconsin legislature at the request of the Wisconsin State Employees Association, with one or two exceptions, and constitute the Association's recommendations for improvements in state salaries, working conditions, and civil service rights and benefits.

SALARIES

Bill 333,A.

Relating to the cost-of-living bonus. Introduced by Assembly Committee on Transportation. The bill increases the cost-of-living bonus for civil service employees from $65 to $90 a month. Bill establishes a new escalator formula and converts the present bonus law from the cost-of-living index for the City of Milwaukee, which has been discontinued by the U. S. Bureau of Labor Statistics, to the new revised consumers' price index (all items, all cities combined) (1947-1949=100). Future bonus adjustments to be based on $1.73 for each 0.6 points change in such index. Provides for $1.00 for each 0.6 points change if the index falls below the level of January 15, 1953. Bill also extends the bonus law to teachers in the state colleges and the university.

Bill 145,S.

Relating to repeal of the 80 per cent formula limiting merit step increases. Introduced by Senators Dempsey and Leverich. Bill repeals 80 per cent formula and provides an appeal procedure for employees denied a merit step increase.

Bill 208,A.

Relating to longevity step increases. Introduced by Assemblyman La Fave. Bill provides longevity step increases at the rate of one step for each 3 years of service after an employee has reached the maximum salary of his salary range. The maximum number of such steps is 3 over a period of 9 years.

Bill 153,S.

Relating to time and one half for overtime. Introduced by Senators Gettelman, La Fond, and Dempsey. Bill establishes time and one half rate for all overtime pay authorized by bureau of personnel. Time and one half to be applied to the basic salary plus cost-of-living bonus.

RETIREMENT

Bill 212,S.

Relating to payment of basic pension in addition to earned annuity under Wisconsin Retirement Fund. Introduced by Senate Committee on State and Local Government. Bill seeks to increase retirement benefits by adding to the annuity payment an amount equal to $2.00 a month for each year of service.

Bill 213,S.

Relating to inclusion of the probationary period in computation of prior service credits and eliminating the 6 months' waiting period before a new employee becomes a member of the Wisconsin Retirement Fund. Introduced by Senator Padrutt.

Bill 99,S.

Relating to annuity payments based on attained age. Introduced by Senator Robinson. Bill proposes to pay annuitants retiring between ages 65 and 70 the annuity due them as of their attained age rather than assumed age 65 as is now the practice.

Bill 100,S.

Relating to maximum limit on contributions to the Wisconsin Retirement Fund and maximum annuities payable thereunder. Introduced by Senator Robinson. Present law limits contributions to the first $350 of earnings; also limits any annuity payment to $175 a month plus annuity payable from additional contributions of the member over and above the required 5 per cent. Bill proposes to eliminate the $350 ceiling on salaries to which the normal contribution rate applies and thereby require contributions on earnings in excess of $350 a month and also grant prior service credits on such basis. Repeal of the $350 ceiling also permits payment of annuities in excess of $175 but not to exceed one half the final rate of earnings.

Bill 195,S.

Relating to 7 per cent contribution rate to Wisconsin Retirement Fund for certain classes of employees. Introduced by Senator Olson. Bill applies to conservation patrol boat captains; conservation patrol boat engineers; conservation airplane pilots; forest rangers; state traffic officers; university policemen; deputy state fire marshals; beverage tax investigators; employees of the conservation commission who are subject to call for forest fire control or warden duty; and guards or other employees whose principal duties are supervision and discipline of inmates in state penal institutions. Bill increases contribution rate for such employees from 5 to 7 per cent where such rate is not already in effect and grants prior service credits at the 7 per cent rate to all such employees. Bill makes conservation patrol boat captains, engineers, and airplane pilots eligible for special disability and death benefits under section 102.455, statutes. Others named above already have such benefits.

Bill 152,S.

Relating to disability annuities under the Wisconsin Retirement Fund. Introduced by Senators Nelson and Leverich. Bill increases disability benefit from 40 to 50 per cent of final rate of earnings in certain cases.

Bill 211,S.

Relating to disability and survivorship benefits under Wisconsin Retirement Fund. Introduced by Committee on State and Local Government. Bill repeals offset of workmen's compensation payments against disability and survivorship benefits payable under Wisconsin Retirement Fund to employees who are disabled from an injury or disease arising out of their employment and to survivors of employees who die from such injury or disease.

Bill 293,A.

Relating to survivorship benefits payable to widows and minor children under Wisconsin Retirement Fund. Intro-

duced by Assemblyman Gehrmann. Bill permits members of the Fund to elect single sum settlements or monthly payments to surviving widows and minor children.

OTHER BILLS

Bill 206,S.

Relating to accumulative sick leave. Introduced by Senate Committee on State and Local Government. Bill increases accumulated sick leave ceiling from 60 to 90 days.

Bill 207,S.

Relating to merit awards for state employees. Introduced by Senate Committee on State and Local Government. Bill establishes merit awards board, provides $5,000 to make awards in cash or otherwise to employees who make worthwhile suggestions for improving state operations which will result in savings to the state.

Bill 294,A.

Relating to judgment debtors. Introduced by Assemblyman Gehrmann. Bill provides relief for state law enforcement officers who have judgments returned against them for acts committed in the performance of their duties. Governor, Chairman of Senate and Assembly Finance Committees, and Director of Public Welfare constitute Judgment Debtor Relief Commission to hear appeals from such law enforcement officers. Commission may order reimbursement for the amount of the judgment but not to exceed $5,000 if it finds the officer acted "in good faith."

Bill 204,S.

Relating to certain powers of the personnel board in disciplinary cases involving civil service employees. Introduced by Senate Committee on State and Local Government. Bill authorizes personnel board to issue an order to reduce a suspension without pay or to substitute a suspension without pay in lieu of discharge in disciplinary cases after appeal and hearing thereon.

Bill 63,S.

Relating to unemployment compensation for public employees. Introduced by Legislative Council on recommendation of Statutory Advisory Committee on Unemployment Compensation. Bill newly provides U. C. benefit protection for many salaried public employees employed by covered government units including all salaried state civil service workers. It also provides a new and flexible system of benefit financing based on the New York state "pay-as-you-go" plan which eliminates building reserves.

Bill 117,S.

Relating to seniority credits for certain personnel of the Wisconsin State Employment Service. Introduced by Senator Busby. Bill grants full state civil service seniority to present employees of the employment service who entered the service of the United States on or after January 1, 1942 and were transferred to the service of the state on November 16, 1946. Passed by Senate Feb. 19.

Bill 205,S.

Relating to seniority credits for motor vehicle department investigators who were originally employed as traffic officers. Introduced by Senate Committee on State and Local Government. Bill extends seniority in the traffic officer classification for the 1951-1953 biennium to certain employees of the motor vehicle department now serving in the classification, investigator.

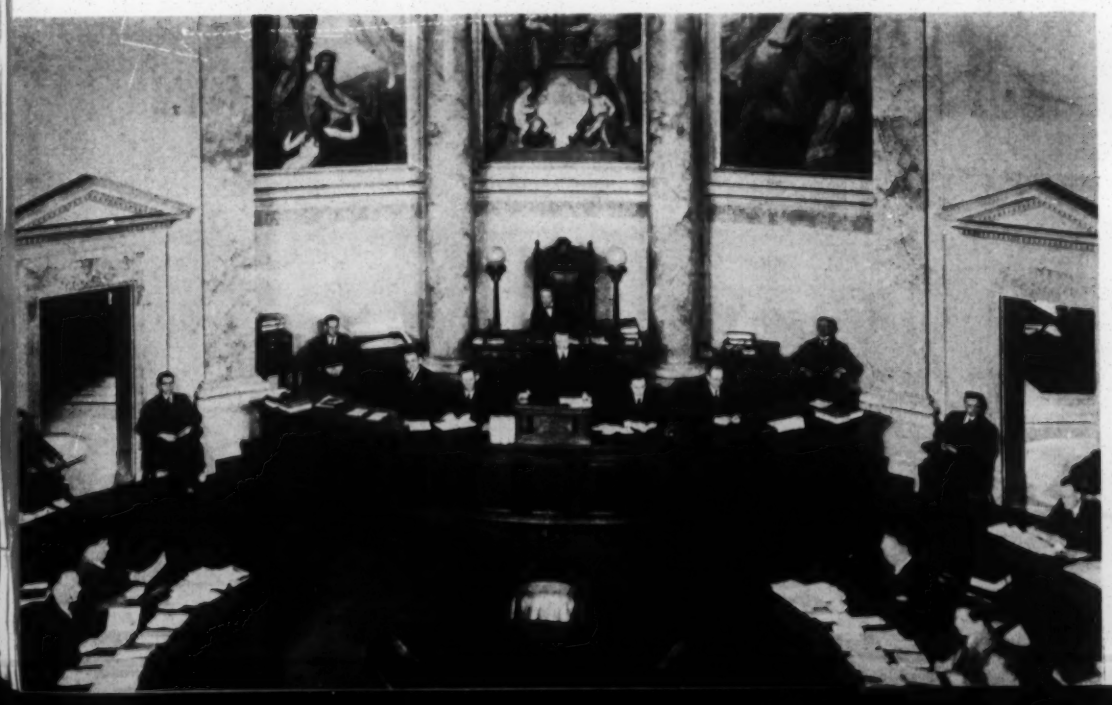
Bills relating to mileage, night work salary differentials, equivalent increases, service ratings, and uniforms had not yet been offered as this publication went to press.

Legislative Session Important To All

THE 1953 session of the Wisconsin legislature, currently the most important factor in the lives of Wisconsin citizens as regards general welfare, was heralded with the rap of gavels on Wednesday, Jan. 14. In fact so emphatic was the bang of the gavel in the assembly, that it flew from the hands of chief clerk Arthur May, in several pieces.

The thirty-three men who make up the senate and the 99 who, with a lone woman, constitute the assembly, were on hand to be sworn to the duties of their offices. With the exception of hold-over senators, all renew their oath each session.

There are fewer new faces in the legislature than in past years. The lower house has 22 freshmen law-makers while the senate has only two. Three additional senators moved from the assembly. The recent appointment of Sen. Rudolph Schlabach of La Crosse, to the board of tax appeals, will mean a substitute will have to be elected at a special election in April.



Smith Leads Senate

Lieut.-gov., George Smith, by reason of his office, retains the speakership of the senate, with Sen. Frank Panzer of Oakfield president pro-tem. Republican floor leader, Sen. Warren Knowles of New Richmond was re-elected, but the nod for the democrat floor leadership was in favor of Sen. Henry Maier of Milwaukee, replacing Sen. Gaylord A. Nelson of Madison.

The switch in party direction from the floor, was in the opposite party in the lower house. Here Arthur Mockrud was replaced by Mark Catlin of Appleton. Catlin returned to the assembly this session after an absence in 1951, when he lost the election to Walter Melchior, also of Appleton. Catlin

(*continued on page* 15)

By ROY E. KUBISTA

ON JANUARY 20, 1953, Congressman John W. Byrnes of Wisconsin introduced H. R. 2062 in the House of Representatives. This bill proposes to extend old age and survivors' benefits under the social security act to members of the Wisconsin Retirement Fund. It is expected that Senator Alexander Wiley will introduce a companion bill in the Senate of the United States. The Byrnes bill provides social security coverage for members of the Wisconsin Retirement Fund retroactive to January 1, 1951. The bill excludes service performed in policemen's and firemen's positions provided the state of Wisconsin requests such exclusions.

* * *

The retroactive feature of the Byrnes' bill is important to all state employees. By moving the starting date back to January 1, 1951, the benefits under old age and survivors' insurance will be substantially increased for retiring employees. Employees who are 63 years of age or older will be fully covered by social security on the effective date of H. R. 2062. This means that their survivors will be eligible for full social security benefits in the event of death before age 65. It also means full coverage for old age insurance benefits at age 65 for such persons. In addition younger state workers also will be fully covered for survivors' benefits since only 6 quarters of coverage are necessary for this purpose. State employees will not be required to make any additional contributions for these benefits nor will the state pay more. The retroactive payments due social security will be taken from the 5 per cent normal payroll contributions, which were matched by the state, and paid to the Wisconsin Retirement Fund since January 1, 1951. The process will simply be a transfer of funds between the state retirement system and social security.

* * *

The best part of the social security deal is the fact that the additional benefits under social security will not cost the employee or the state more money. State employees will receive two pensions when they retire at age 65, the regular retirement benefit from the Wisconsin Retirement Fund plus federal insurance. Required social security taxes will be subtracted from the normal 5 per cent payroll contribution the employee and the state now pay to the Wisconsin Retirement Fund. All this will happen if and when H.R. 2062 becomes law. Will the state employee receive preferred treatment compared to employees of large private employers under this plan? The answer is no. There are some 10 million employees in this country covered by private pension plans supplemented by social security benefits.

* * *

The story of the fight for the extension of federal old age and survivors' insurance to the employees of state and local governments already covered by their own retirement plans goes back many years. First among those to advocate integration of state and local retirement systems with social security was our own international union, the American Federation of State, County, and Municipal Employees. As early as 1936 the international convention of the AFSCME had taken a firm stand in favor of the extension of social security to public employees. The position of the international was restated and emphasized in conventions held in 1946, 1948, 1950, and 1952. Effective national leadership for the proposition has been maintained, under most discouraging circumstances, by our national Civil Service Counsel, Colonel A. E. Garey. In this connection, I witnessed the very able appearance of Colonel Garey before the Finance Committee of the United States Senate March 17, 1950 on bill H. R. 6000. The atmosphere in the committee room was completely hostile. H. R. 6000 proposed the extension of social security to covered public employee groups. The committee was hostile because there had been so much pressure against the bill by organized teachers, policemen, and firemen who wanted no part of federal insurance. Colonel Garey's argument was airtight, but the bill failed to pass. The congressional fight continued in 1951 and 1952 without success. The prospects in 1953 look brighter.

* * *

The reason prospects are brighter in 1953 is the fact that the principle of extension of social security to covered public workers is now supported by many national organizations that have only recently joined the fight. These include the American Municipal Association; the National Association of County Officials; the National Association of Municipal Law Officers; the U. S. Conference of Mayors; the Association of Governing Boards of State Universities and Allied Institutions; the Association of Land Grant Colleges and Universities; the National Association of Housing Officials; and the National Association of State Universities. Besides the Wisconsin bill, Congressmen Byrnes and Rains, of Alabama, have introduced companion bills, H. R. 2063 and H. R. 2064, which provide for the extension of federal insurance to employees of state and local governments throughout the nation. Both the Wisconsin bill, H. R. 2062, and the general coverage bills will be pushed by interested groups.

* * *

It should be understood that the Wisconsin bill applies exclusively to the integration of the Wisconsin

(continued on page 16)

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Recommendations On Civil Service Salaries

Prepared by WSEA Salary Committee

PURSUANT to Chapter 611, Laws of 1947, the State Bureau of Personnel in cooperation with the legislature's committee on reclassification undertook a study of the state classification and compensation plan in 1947-48.

The classification and compensation plan resulting from this study became effective on June 1, 1948. The salary range established for each class of positions was deemed to be equivalent to prevailing market rates and costs and standards of living as of February 15, 1948.

Escalation of state employee's salaries through a "cost-of-living bonus" was established by act of the 1947 legislature. It is based on the cost-of-living index for the city of Milwaukee. The rate of escalation is $1 per month increase or decrease in the cost-of-living bonus for each 1 point change in such index.

The following study seeks to determine how the adjustment and escalation of state employees' salaries compares with the adjustment and escalation of salaries of employees in comparable jurisdictions in Wisconsin for the period July 1, 1948 to January 1, 1953. Included also are comparative figures based on Bureau of Personnel salary surveys for 1950 and 1952.

The Special Salary Committee appointed by the executive board of the Wisconsin State Employees Association was created for the purpose of studying the salary status of state employees and developing criteria to show what, if any, adjustments are warranted on an over-all basis.

Since neither the committee nor the WSEA have the time or facilities to make detailed job evaluations and surveys, we have had to approach the problem on a general comparison basis. We have tried to show what has happened to the salaries of other groups of employees and compare that with increases granted state employees during the same period of time. In our opinion there is no fairness in expecting state employees to accept less than equivalent consideration.

It is admitted our material is limited but we believe it is accurate and generally representative. At no time in our presentation have we consciously slanted facts. If any of the figures appear questionable or if the periods of comparison appear to be chosen to give a distorted basis of comparison, we sincerely request the opportunity to present our reasoning.

COMPARISONS

Case I—

Milwaukee City Employee

From July 1948 to January 1953
Cost-of-Living Bonus increased from $83.02 to $133.92 ..... **Bonus Increase $50.90**
Basic salary increase for lowest classification:

$15.00	January 1, 1951	
8.00	January 1, 1952	
8.28	January 1, 1953	
	Total Basic Increase	**31.28**

Minimum compensation increase since 1948 in lowest classification exclusive of merit increases **$82.18**

Wisconsin State Employee

Cost-of-Living Bonus increase in same period as above—($35 to $65)	**$30.00**
Basic salary increase in same period as above—($10 on May 1, 1951)	**10.00**
Minimum increase comparable to above	**$40.00**

Conclusion—

$42.18 monthly increase is necessary to bring the lowest classification up to comparable basis with the Milwaukee City employees as they were established after reclassification and salary survey in 1948.

Case II—

Milwaukee County Civil Service Employee

From July 1948 to January 1953
Cost-of-Living Bonus increased from
$83.02 to $133.92 ..... Bonus Increase $50.90
Basic salaries increased:
$15.00 January 1, 1951
13.00 Average increase by salary survey effective January 1, 1953.
Total Basic Increase Average 28.00

$78.90

Wisconsin State Employee

Cost-of-Living Bonus increase in same period as above $30.00
Basic salary increase May 1, 1951 ..... 10.00

$40.00

Conclusion—

$38.90 monthly increase is necessary to bring state employees up to the comparable basis as established in 1948.

Case III—

Bureau of Personnel salary survey of private and other public units from November 1950 to November 1952 shows a 14.65% average increase in jobs comparable to state classifications.

On May 9, 1951 the director of personnel informed the legislature's joint committee on finance that the proposed state compensation plan to be effective July 1, 1951 together with adjustments provided by Chapter 97, Laws of 1951, was aimed at adjusting for changed employment and economic conditions occurring up to November 1950.

Since the effective date of the state compensation plan (July 1, 1951), state employees have received an increase of $11 a month in the cost-of-living bonus; this is equal to 4.5 to 5 per cent in the lowest ranges and about 3.5 per cent in the middle ranges.

Consequently on the basis of these surveys a 10 or 11% increase in state salaries would be due to bring them into line as of November 1952 with the changes reflected in the Bureau's survey.

However, not included in the Bureau's survey are further and substantial increases that will be effective for many of the private and other governmental units between November 1952 and July 1953 which is the statutory effective date for the Bureau's recommended salary schedules.

For example, Dane County employees, included in the survey, will receive substantial increases effective January 1, 1953. Milwaukee City employees, included in the survey have approved increases due January 1, 1953 ammounting to $9.32 per month plus 4% of their total compensation (basic salary and cost-of-living bonus) in 1952 with the limitation of $25 on the percentage increase.

Conclusion—

With a 10 to 11% increase already shown as warranted on the basis of the Bureau of Personnel's Survey up to November 1952, it is not unreasonable to anticipate that further increases in surveyed establishments from November 1952 to July 1953 will justify another 4 to 5%.

Accordingly, to propose consideration of increases for state employees equivalent to less than 15% would be obviously unfair.

15% INCREASE JUSTIFIED

15% of average civil service salary of $250 per month $37.50
We, therefore, request that increases be made on the following basis:
Cost-of-Living bonus adjustment across the board $25.00
5% Average increase in salaries based on adjustments scheduled by the Bureau of Personnel in review of schedules 12.50

Total Average Increase $37.50

Example

$200 permonth employee would receive—
$25.00 increase in bonus
10.00 average increase in salary

$35.00 Total adjustment

$300 per month employee would receive—
$25.00 increase in bonus
15.00 average increase in salary

$40.00 Total adjustment

Sacony
suits of Palm Beach
the suits you can wear as often as your watch...

"it's a wonderful buy!" $25

Capitol Policemen Must Know The Answers . . .

(*continued from page 6*)

approached a policeman and asked if she could have one of the capitol park squirrels if she could catch it. There were so many there, she added. This was one that could be answered in the affirmative, because the furry creatures, although friendly are also very fast.

Slips from shrubs and plants and the flowers themselves are coveted by many a housewife with a green thumb, but partaking of any is strictly "verboten."

Although there have been many interpretations of the great statue that surmounts the outer dome, it is a fact that it was not sculptured to indicate any personality or symbol. The most accepted title for the golden lady is "Forward", the motto of the state. And this is the general explanation. However, "Forward" is slightly backward in comparison to a sister statue, because she is not hospitable. Many persons are disappointed because they cannot crawl up into her arms as can be done with France's gift to America standing in New York's harbor, the Statue of Liberty.

Where Did That Office Go?

The ever increasing crowding of the capitol has added to the knowledge that must be stored away by the guardians of the building. State departments occupy space in rented buildings in every part of Madison. And Madison covers quite a stretch of territory.

For instance someone will be mighty upset if he is looking for the industrial commission at 137 E. Wilson-st., and is directed to 2218 University-ave., or 448 State-st. He will find the industrial commission at all three addresses, but chances are he won't find the department he wants on the first try. Here is where the policemen come to the rescue. They ascertain if he seeks the employers division of unemployment compensation or the employes division or the employment service. That settled, the interrogator is given the proper directions.

Although the department of agriculture occupies much of the fourth floor and numerous other spots, the department of plant pathology is housed at 315 N. Carroll-st. Similarly the department of public welfare has outgrown its quarters in the state building and has been forced to spread its divisions to various parts of the city. If you are looking for the division of mental hygiene or the bureau of alcohol studies, go to 310 Orchard-st., says the guide. You're not? You'll find the division of corrections at 104-106 E. Dayton-st., and if that isn't what you want, perhaps it is the probation and parole department at 210 S. Pinckney-st., or the Madison district welfare office at 207 N. Pinckney-st. It's all very confusing to the layman, because the terms are puzzling to the person

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ANCHOR

SAVINGS & LOAN ASS'N

Al C. Steinhauer, Pres.

2 South Carroll — Madison

that knows only "public welfare" as his goal.

Many Outside Capitol

Additional state departments outside the capitol include the conservation department, crime laboratory, board of health, highway commission, department of nurses, public employes social security, public instruction, bureau of purchases, vocational education, Wisconsin retirement fund, and the state retirement system. Together they occupy 91,826 square feet of rented or leased space.

These are some of the types of service rendered by capitol policemen and guides. They indicate that the position is not as simple as it seemed to the elderly man who volunteered, "I could do that job, all you do is set."

There are eight policemen, three of whom double as guides. There is Forrest Manson, with many years of service to his credit, who guards the lower or ground floor. In spite of the rigors of his daily duties, Manson is genial and will always extend himself to accommodate visitors. There was the party of Australians who arrived after closing hours and were shown through the building by Manson, with the aid of a flashlight. As the group ascended the east stairway, it met Gov. Kohler coming down. Undoubtedly he was pleased to see the courtesy paid the people from "down under." Incidentally, the governor had apparently worked over-time too.

Policemen designated as guides are Robert Sullivan, Epha Wright and Ray Hustad. In addition to answering questions they must learn how much gold leaf went into the decorations in the executive reception room; the origin of all the marble and dozens of other kinds of information that goes into the conducted tours.

Served Late Gov. Goodland

Sullivan has served the state in varying capacities since he became a civil service employe 11 years ago. When the late Gov. Julius Heil took office he was transferred from the capitol to the executive mansion, where he served as grounds man. When the late Gov. Walter S. Goodland was elevated to the executive office upon the death of Gov.-elect Orland Loomis, Sullivan was pressed into service as Goodland's chauffeur. He served in this capacity four years.

Ernie Osterfund, who can be found on the west balcony near the office of the secretary of state, is the oldest policeman in point of service, having 41 years behind him. Willard Woodburn, Tony Pickerts and Carlton Jennings complete the roster of guards.

(*continued on next page*)

Spring Comes to the

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"What do you mean, 10 p. m.?" you may ask. "that place is closed at 5:30."

Well, we both are right. The official closing time is 5:30 on week-days and 5 p. m. on Saturdays and Sundays. After 5:30 p. m. on week-days only the east entrance is open and any one having official business in the capitol . . . employes or officials . . . may enter by signing in and signing out. Special passes will admit one to the law library.

Although the building is open until 5 o'clock Saturdays and Sundays, you had better get there earlier unless you like to walk, because the elevators are stationary after 4 p. m.

Policemen work six days and have two days off. With the exception of Christmas and New Years, holidays are like any other day. On these two feasts they work split shifts so everyone gets a chance for a "hot meal." One Sunday in every six weeks is guaranteed "off".

This then, is your capitol guide system. The men who are responsible for the general conduct and well-being of the thousands who annually inspect the state's seven million dollar capitol.

Behind the scenes there is Charles Halbert, chief engineer, Malcolm Brown, superintendent of grounds and F. X. Ritger, purchasing agent. And behind each of these is another story.

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State Employees Ask $37.50 Average Increase

(*continued from page* 5)

state is not in a position to meet its necessary financial obligations. The state recognizes the necessity and practice of paying higher prices for materials, supplies, and services as such price increases are made necessary by wage and salary adjustments to employees of such suppliers. Budgetary provisions for this are readily approved. The amount of goods or services may have to be curtailed for economy reasons, but no one proposes that the budget should be figured to cover the same amount of material and/or service at the same price as under previous budgets.

Just as the state expects to pay prevailing rates for materials and supplies there is logic that the state should be expected to pay prevailing rates of pay to those in their employ. If economy dictates curtailment of expenditures, they may be able to buy less but still should pay the fair rate for what they deem necessary.

In the governor's budget message he has recommended $1,250,000 "to provide salary adjustments for some of our upper level civil servants, whose compensation has lagged behind the rise in living costs." It does not contemplate that amount be spread equally, but even if it were, it would represent approximately a 3.3% increase in state employees' compensation schedules.

The Bureau and the Personnel Board

It would seem that the objective of the Bureau of Personnel and the Personnel Board in periodically reviewing and making recommendations regarding state pay schedules is to determine and advise the legislature as to what adjustments are warranted in accord with market conditions and prevailing practices in representative Wisconsin industries. The legislature, of course, must determine the resources of the state and decide the willingness of the taxpayers to pay.

The tail would certainly be wagging the dog were the Bureau and the Board to recommend salary schedules only on the basis of what the legislature or the administration thought they wanted to spend. In such case the Bureau and Board would serve no purpose in reviewing salary plans that any good clerk could not fulfill with a

calculating machine. Unless the Bureau and the Board make their true findings known and base their recommended schedules for the next biennium on the basis of what is in line with the compensation schedules of Wisconsin industry, they are not playing fair with the legislature. The joint finance committee is entitled to know how state schedules compare with industry. It is then their prerogative to determine what can and should be done.

If it is not the specific responsibility of the Bureau and the Board to report what their survey and findings warrant in adjustments of the state salary schedules—then whose responsibility is it?

Future Prospects

There is now some reliable indication that the inflationary spiral is leveling off. If state salaries are not now adjusted to the levels as warranted by the actual experience in industry and other public services during the last two years, the present comparatively low rates will likely become the leveled off" rates. If the 1954 survey by the Bureau should show little change from its latest adjusted figures for the 1952 survey, it is unlikely that any one will champion the cause of making belated increases in state schedules at that time.

Unless some fair and warranted action is taken now, state salary schedules will lag further behind with little hope of ever being brought in line with market conditions until another expensive "Griffenhagen" type independent survey is instituted."

Legislative Session Important . . .

(continued from page 8)

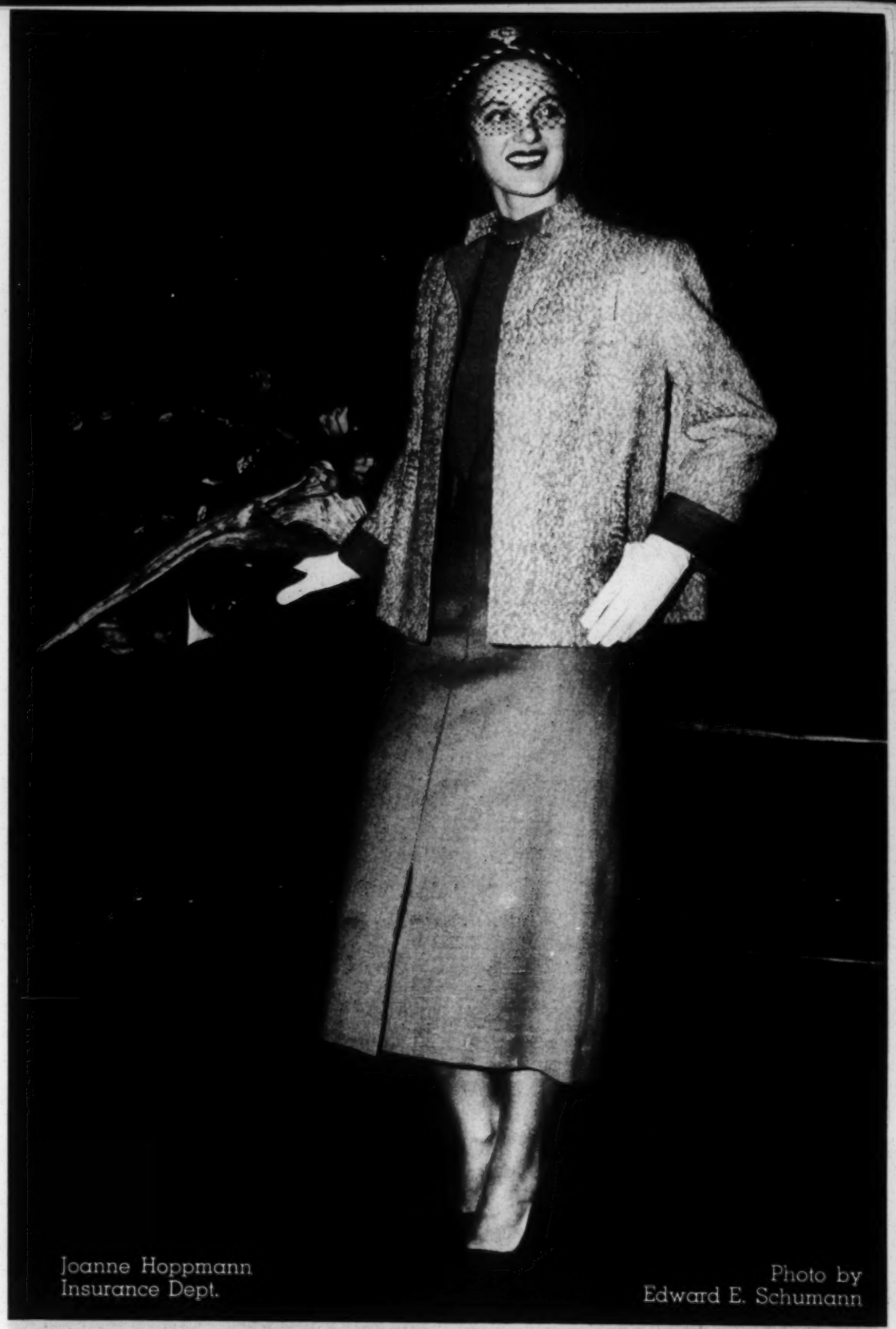
is a veteran in State politics. George Molinaro of Kenosha retained his post of minority party leader, and Charles Schmidt of Milwaukee got the assistant's job.

Ora Rice of Delavan, was renamed speaker of the lower house. It may be noted that the Madison area is not represented in the key positions.

197 Bills In First Day

Due to the efforts of the legislative council, which has worked hard during the interim, there were 67 of their measures handed the senators and 103 found their way to the desk of the assembly. In addition 13 individual bills were offered for senate consideration and 14 in the other house.

This flood of 197 printed bills made it necessary for the legislature to adopt



Joanne Hoppmann
Insurance Dept.

Photo by
Edward E. Schumann

Spring's newest silhouette

the boxy ensemble . . .

Matched colors, contrast in fabrics . . .
clipped poodle jacket, worsted skirt, wool jersey blouse . $65.00
Handbag, new music-roll style, genuine calfskin . . . 13.95★
Gloves—by Hansen, double-woven nylon 2.95
Hat—striped candy-straw bonnet 12.95
★Plus tax.

Simpson's

Kay Windsor

As ever you'll enjoy the elegant simplicity of a Kay Windsor shirtwaister. It's the dress that forms the basis of your season-thro-season wardrobe . . . the dress you'll wear everywhere with assurance. In broadcloth of gray or navy. 10 to 18.

SECOND FLOOR

Baron's

EAGLE STAMPS — YOUR EXTRA SAVINGS

a plan of "skeleton" sessions until Jan. 27, to allow "book work" to catch up.

Thomas Donahue, chief clerk in the senate, together with May, were scratching their heads over the problem of temporary employes. A hastily enacted bill, which the governor was authorized to sign in typewritten form to expedite its effectiveness, increased the per diem salary of these jobs, and the result went a long way to clear the bottle-neck. The increase brought the pay for stenographic work to $9 a day and that for other work to $7.

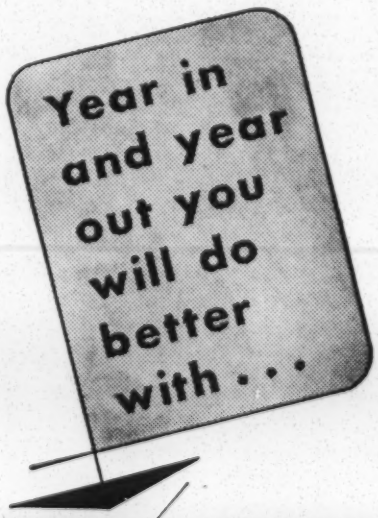
Civil service employes will want to keep a close watch on the work of the legislature this session, as there will be proposed changes in the laws that will affect them directly.

Capitol Comment

(*continude from page* 9)

Retirement Fund and social security. Only members of the Wisconsin Retirement Fund will be affected. Members of the Conservation Wardens' Pension Fund will be eligible for social security benefits only if H. R. 2063 or 2064 are enacted and after the Wisconsin legislature has passed the necessary enabling legislation. Members of the Association interested in these bills are urged to make their wishes known to the congressmen.

Husband consoling wife at daughter's wedding: "Don't think of it as losing a daughter; think of it as gaining a bathroom."



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Wisconsin May Add Third Colony For Care of Mental Defectives

By LUCILLE BYSTROM

DO YOU think you have it tough? Prices high, salary low.

Might as well be low because a raise would mean more taxes, anyway.

The boss pick on you?

The gal at the next desk goldbrick while you do her work?

Maybe so, but spare a few minutes to look at a pattern of life that is really tough and your troubles will look like anemic midgets.

Do you know that the correlated findings of North European and American workers have defined the incidence of mental defect in the general population as 2.27 per cent?

DR. LESLIE A. OSBORN
Director, Division of Mental Hygiene

Perhaps that is pretty general to be effective.

Well then, in Wisconsin this general standard requires institutional treatment for 3,500 epileptics and mental defectives. Brings it a little closer to home, doesn't it?

A report presented to the board of the state department of public welfare by Dr. Thorsten Smith in December of last year, gives some startling and heart-breaking statistics. Statistics are heart-breaking when broken down as they are in the report, because they are not just figures, but translated into human lives.

Legislature Must Act

There will come before the legislature this session a bill empowering the welfare department to build a third institution, similar to the Northern and Southern colonies at Chippewa Falls and Union Grove. The funds are available and the state building commission has given the project the green light. Here is why.

The resident population today of 2,909 is 1,058 above rated capacity of 1851, and represents an overcrowding of 36 per cent. The average yearly increase in resident patients since 1945 has been 103.7, so that even when the new buildings under construction at Southern colony are completed there still will be an overcrowding of 498 patients.

Analysis of first admissions show that of the 310 patients admitted each year, more than one-third are under the age of five. More than one-third are idiots. The trend could be expressed, too, by saying that one-half of all admissions are below the age of five or are idiots. These are long term patients who do not have the death rate known in former years, and must materially enlarge the yearly increase in residents and hasten the decline in the average mental status of resident patients.

To what is this increase in virtually infantile population due? According to the American Medical association figures for 1952, the infant mortality rate was 1 child in 1,000 births. In 1933 six babies in each 1,000 died before reaching the age of one year. Improved medical care and the advent of the "wonder drugs" move hand in hand to save newly created lives, but unfortunately not always for a happy future for either child or parent.

This, says Dr. Smith, explains why one-third of admissions in the colonies are under the age of five and why 55 per cent of these youngest children are idiots and seriously disabled.

Only 10 Epileptics Mentally Normal

The combined population at the Northern and Southern colonies classified as epileptics is 624. Of this number only 10 are not also mentally defective. The lower grades of idiot and imbecile account for 507 and the higher moron grade 107. An average of 7.5 per cent are known as educable and are in school at the institutions. Another 11.4 per cent are in occupational therapy and industry, (small

DURING FEBRUARY

•

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routine tasks about the institutions) and 81 per cent have no assignment.

When the stars are handed out for heavenly crowns, a good share will belong to those workers who try to make life a little more bearable for those helpless and hopeless youngsters who are crowded into every inch of space in the two colonies.

A central colony would be built in or near Madison, where it would have the benefit of university research, services of the diagnostic center, (now under construction), the Wisconsin General hospital and affiliated research departments and many other specializations.

The present colonies have passed their limits in size, and proper care of the patient is hindered, says Dr. Smith. The Central colony is proposed to care for the younger, lower grade admissions, and can be especially designed for their care, training and treatment, while the present colonies will be converted to the task of educational functions and training.

Four-Point Program

Dr. Smith outlines four specific programs for the proposed institution, as follow;

1. Care and treatment. Numerous physical anomalies, 50 per cent of them genetic in origin, are seen among the lower grade patients. Even among the present colony populations the extent of disabilities and needs are pronounced. At Central colony special programs must be devised for them and for specific physical handicaps such as spasticity, blindness, deafness and many others. Needed services indicate a pediatric and a geriatric program, care and treatment of the tuberculous mental defective or epileptic, and the study of epileptics, including those of normal mental status.

2. Training of professions. The Central colony can contribute to university education by providing clinics and teaching programs to students, not only in medicine, but in all the biological sciences, in genetics, in anthropology and in psychology, sociology and education.

3. Research. The Central colony could provide research programs in all problems related to growth and development.

4. Diagnostic services and clinics. This could be most easily provided. A diagnosis could be made without a court commitment, the patient remaining at most a few days, thus helping the family and social aspects.

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The need has been established, the money made available, the project approved by the specialists. The remaining factor must come from the legislature. When it does, the state of Wisconsin will step forward again in her program to care for unfortunate boys and girls.

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WOMEN IN WHITE

- **Should Aids Wear White In A Mental Hospital---**
- **History of A Grievance**

THE following is a case study of the technique of handling employee grievances in the State Department of Public Welfare.

The grievance originated at Mendota State Hospital on April 21, 1952 by petition of 75 female aids who desired to switch from a gray uniform to a distinctive white garment.

Under the department's standard procedure for handling employee problems, the female aids, through their representatives in Mendota State Hospital, Local 13, discussed the grievance first with the immediate supervisors and finally with the hospital superintendent. The result of both discussions was a negative reply to the grievance.

Appeal was taken to the director of the division of mental hygiene.

The various steps in the procedure, the timing thereof, the issues, arguments, and decisions are contained in the following correspondence and memoranda.

●

The Decision of the Director of Mental Hygiene

December 18, 1952

Mr. John W. Tramburg, Director
State Department of Public Welfare
Dear Mr. Tramburg:

Decision regarding Aides' Uniforms

The appeal of the Mendota Local from Dr. Urben's decision was made last spring. I felt the subject warranted careful study for three reasons:

1. As it touches directly on the treatment of patients, the decision had to be one thought best on this primary basis.
2. The uniform question touches on program in various ways, such as ready identification of employees according to their function, appearance, and morale. The relative weight to be given to each of these could not be readily or easily decided upon.
3. Present practices are not consistent between institutions in the Division. It was felt that standard practices for the Division were desirable if practicable.

Because the divisional decision hinged on effects on program, this subject was discussed at three successive divisional staff meetings. At the first, a subcommittee was appointed; its findings were reported to the second, and a wider investigation of the problem was requested by an expanded committee.

Mr. Kubista consented to serve on both committees and Mr. Boyer on the second. On the main point at issue, the larger committee voted a 4-4 tie. This was reported to the divisional staff. The vote of the staff was unanimously in support of Dr. Urben's position.

I concurred personally with this position and gave my decision to Mr. Boyer in a letter dated December 4. In that letter I apologized for the time taken in acting on the grievance appeal. I felt the importance of the subject warranted detailed study and consultation with the superintendents who are directly responsible for program.

My decision was based on the need for identification of employees according to function and the belief that color of uniform is the simplest and most effective way of accomplishing this. Such identification, in my opinion, is required for medical procedures, for patients' understanding of the differing roles and grades of responsibility of those caring for them, and for visitors who have similar need to be aware of differences. There is a relatively high turnover of personnel

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in the aide classification. While experienced aides can and do explain the situation readily when mis-identified, new and inexperienced ones may not. We do have to face this in view of the turnover factor.

The morale factor for all employees, as these deliberations have brought out, requires more attention in regard to uniforms. A subcommittee consisting of Mr. Graham, Dr. Urben, and Mrs. Marjorie Hughes of Southern Colony has been asked to follow up so that maximum contributions of uniforms to morale and appearance consistent with need for differentiation would be assured.

Sincerely yours,
Leslie A. Osborn, M.D.
Director
DIVISION OF MENTAL HYGIENE

●

Pursuant to the provisions of the grievance procedure, final appeal from the decision of the director of mental hygiene was taken to the director of public welfare.

The Case for the Employees

MEMORANDUM

In the matter of the appeal from the decision of the director, division of mental hygiene, relating to the color of the uniforms of female aids employed at the Mendota State Hospital.

TO: The Director, State Department of Public Welfare
FROM: Wisconsin State Employees Association, in behalf of Mendota State Hospital Employees, Local 13

This matter comes up on appeal to the director from the decision of the director, division of mental hygiene, dated December 4, 1952.

The director's decision states:

"After careful discussion, divisional staff decided that there was need to use distinguishing colors to designate different professional groups working in direct contact with patients, and so voted against the request that aides be allowed to use white uniforms" . . . "My own decision concurs with the recommendation which the staff has made to me."

THE PROCEDURE

No question of proper procedure is raised in this case.

The issue originated as a grievance under the standard procedure for handling employee grievances applicable to Mendota State Hospital.

On petition of 75 female aids employed at Mendota State Hospital, Local 13, representing employees at the hospital, was requested to present the grievance to the proper authorities.

A committee of 6 aids and representatives of the union met with Mrs. Janet Nusinoff, graduate nurse VI, on April 21, 1952. The committee requested that female aids be permitted to wear a distinctive white garment and presented its reasons therefor.

Decision in the matter was postponed and a second meeting of the group was held on June 2, 1952. Dr. Edward Burns, medical director, was present. Mr. Steve Clark represented the union. The request of the union was denied.

On June 2, Dr. Walter J. Urben, Superintendent, indicated his concurrence in the decision of Mrs. Nusinoff and Dr. Burns.

The matter then went up on appeal to the director, division of mental hygiene, on June 14. Receipt of the appeal was acknowledged by Mr. A. H. Spevacek, personnel officer, on June 17. Under date of July 18, in a letter addressed to Mr. Alva Boyer, president, Local 13, the personnel officer stated that the question was being cleared with the director of mental hygiene and that the entire matter was being studied with a view toward the establishment of a state-wide policy on uniforms for the department.

On August 6, the director of mental hygiene selected a committee consisting of Mr. Clarence Graham, chairman; Mrs. Olga Kittilson, and Mr. Roy E. Kubista to investigate the subject of employees' uniforms.

The committee met at Mendota State Hospital on September 15. Dr. Urben, Mrs. Nusinoff, and representatives of the employees appeared before the committee.

After thorough consideration of the issues, the committee returned the following recommendations to the director of mental hygiene on September 17.

"It is the recommendation of this committee that the Psychiatric Aides

be allowed to wear white uniforms at Mendota State Hospital, but that the uniforms have one or more distinctive markings indicating the wearer is a Psychiatric Aide. The committee further recommends that the date for changing to white uniforms be January 1, 1953, or some other date mutually agreeable to the employees and Superintendent.

It is the opinion of the committee that should the recommendation of this committee be accepted by the Director that the Superintendent and Director of Nurses, together with representatives of the Psychiatric Aides, should establish the type of uniform to be used, and that the Psychiatric Aides accept the responsibility of seeing that their members wear them with the proper dignity and decorum traditionally associated with white uniforms in hospitals."

In a memorandum dated October 28, 1952, addressed to mental hospital superintendents, Mrs. Kittilson and Mr. Kubista, Mr. Clarence Graham stated that in response to a request made at the staff meeting on October 10, the director of mental hygiene had appointed a second committee to review the subject of employees' uniforms.

In addition to the personnel of the original committee, the second committee was composed of: one male nurse to be selected by Dr. Klepfer, Central State Hospital; the director of nurses and one psychiatric aid to be selected by Dr. Urben, Mendota State Hospital; the director of nurses and one psychiatric aid to be selected by Dr. Petersik, Winnebago State Hospital; and one aid to be selected by Mr. Stevens, Southern Colony.

The second committee met on November 14. After discussion of the issues. on motion of Mr. Boyer that the uniform committee recommend the adoption of a standard white garment to be worn by female institution aids employed at Mendota and Winnebago State Hospitals, the vote of the committee was divided as follows: 4 ayes and 4 noes.

There followed the negative decision of the director of mental hygiene and the appeal to the director, state department of public welfare dated December 9, 1952.

Since this matter originally arose as a grievance of employees at Mendota State Hospital and is being heard as such on appeal, the following issues and arguments are limited to the personnel of Mendota.

THE ISSUE

By petition and otherwise, a substantial majority of the female aids at the Mendota State Hospital have indicated their preference for a white garment to replace the gray uniform which is presently standard at Mendota.

The wearing of the uniform of graduate nurses by institution aids is not at issue.

The white garment proposed by the aids contemplates adequate identification markings, short sleeves, and any other suitable insignia to avoid conflict with the garb worn by graduate nurses. Aids do not wish to wear white caps. Caps are not at issue.

THE ARGUMENTS

It is contended by the union that:

1. Gray as a color is limited to cotton garments while white can be obtained in both cotton and nylon. Many women prefer to wear nylon.
2. A colored uniform, in this case gray, is subject to fading through laundering which results in many unsightly shades of gray. White remains uniformly white.
3. White garments may be bleached to remove spots; this is not possible with gray.
4. White garments are available in many different styles and in half sizes providing better fit. Gray is limited to 3 styles. Style and fit help build the morale and pride of the wearers.
5. The general appearance of women in white is neater and fits in better with the hospital atmosphere.
6. The ease of laundering white nylon would permit the women to do their own uniforms on occasion and thereby reduce the burden on hospital laundries. The aids are presently allowed 5 uniforms per week for laundry purposes and have indicited their willingness to reduce the number if a white garment is adopted.
7. All studies of employee uniform trends in mental hospitals in this country indicate that the white garment has become standard for female institution aids.

(continued on next page)

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8. One result of this trend is that out-of-state candidates for aid positions in Wisconsin frequently come equipped with white uniforms. It is conceivable that white may be an added inducement in recruiting.

White vs. Gray in the matter of identification.

The union takes the position that:

1. In female wards where patients are permitted to wear a variety of colors, hospital personnel clothed in white are more readily identified by supervisory personnel, visitors, and patients.
2. In patient movements from one building to another after dark, hospital personnel clothed in white may be quickly identified in cases of emergency.
3. The argument advanced by the opposition that identical colors of aids' and graduate nurses' uniforms may subject the latter to blame for erroneous technical and medical information furnished to visitors by aids has little validity. It is invalid on the grounds that a layman visitor cannot be expected to know what kinds of questions to direct at various classes of hospital personnel as distinguished by the color of their garments. Proper answers to visitors' questions are a subject of employee training and cannot be identified with the color of the uniform.

White vs. Gray in the matter of encroachment on the rights and privileges of graduate nurses.

The union takes the position that the desire of the aids to wear a standard white garment to work, in no sense encroaches upon the exclusive right of a graduate nurse to wear the traditional white nurses' uniform, pin, and cap. The aids are not permitted to acquire professional standing by changing the color of the uniform nor do they want to pose as graduate nurses.

The union recognizes and respects the exclusive right of the graduate nurse to wear the nurses' uniform. The union admires the nurses' pride in the uniform. However, the union must reject the contention that graduate nurses, as an occupational and professional group, should have a monopoly on color.

It is contended by the opposition that the wearing of a white garment by institution aids will further detract from the professional standing of the graduate nurse and tend to equalize the positions of aid and nurse.

The union rejects the argument.

We submit that, under the Wisconsin Civil Service law, the authority, responsibility, and general character of a position are recognized and rewarded through the provisions of the state classification and compensation plan. The graduate nurses' professional training and education are clearly compensable, but it cannot be contended that the State of Wisconsin ever intended that such compensation consists, in part, of the exclusive monopoly of the color of a uniform.

In conclusion the union respectfully submits that employee morale and improved patient care are closely related. The institution aids deem the color of the uniform an important morale factor.

Since the uniform is worn for the convenience of the employer but purchased at the employees' expense, it seems reasonable that the wishes of the aids in the matter of color based on the foregoing arguments should be given preponderant weight.

December 19, 1952

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The Director Decides

STATE OF WISCONSIN
STATE DEPARTMENT OF PUBLIC WELFARE

MEMORANDUM DECISION

IN RE: PETITION OF
Mendota State Hospital Employees, Local 13
Wisconsin State Employees' Association (AFL)
relating to uniforms of Psychiatric Aides

PRELIMINARY RECITALS

This is a matter of employee-management relations brought on for final decision of the Director of the State Department of Public Welfare, pursuant to a general plan for processing employment problems as set forth in the department booklet titled "Your Employment Problems." Since it is an administrative matter not involving policy established by the State Board of Public Welfare or Civil Service rules, the Director's decision is final.

A hearing was held in the State Capitol on December 19, 1952, John W. Tramburg, Director of Public Welfare, presiding, and the following persons participated:

Steve Clark, President, Wisconsin State Employees' Association
Roy E. Kubista, Secretary, Wisconsin State Employees' Association
Alva Boyer, President, Mendota State Hospital Employees, Local 13
Walter J. Urben, M.D., Superintendent, Mendota State Hospital
Edward M. Burns, M.D., Clinical Director, Mendota State Hospital
Janet R. Nusinoff, Director of Nursing Service, Mendota State Hospital
Leslie A. Osborn, M.D., Director, Division of Mental Hygiene
Clarence T. Graham, Administrative Assistant, Division of Mental Hygiene
A. H. Spevacek, Personnel Officer, State Department of Public Welfare
Frank P. Fosgate, Legal Counsel, State Department of Public Welfare

The matter arose when a majority of the female psychiatric aides at Mendota State Hospital requested permission to change from gray to white uniforms. The request was denied and the matter carried up to the Division of Mental Hygiene. The Division proposed a plan for a distinctive uniform for psychiatric aides in all state mental facilities, believing this would promote the morale of the employees with resulting benefits to patients. After extended consideration the color gray was designated by the Division for all state mental institutions. However, the Mendota State Hospital Employees held to their original request to change to white uniforms, and appealed to the Department Director.

No question of procedure was raised. The wearing of nurses' uniforms was not at issue. The aides do not wish to wear caps. It was understood that uniforms would have adequate identification markings, short sleeves, and other suitable insignia. The issue was limited to the sole proposition.

SHALL THE UNIFORMS WORN BY FEMALE PSYCHIATRIC AIDES AT MENDOTA STATE HOSPITAL BE WHITE OR GRAY?

●

After consideration of the facts and arguments presented at the hearing, the Director of the Department of Public Welfare makes the following findings, conclusions and directives:

FINDINGS

1. That a distinctive uniform for psychiatric aides at all state mental facilities has probable morale and practical values, and a plan therefore should not be abandoned or limited at this time.
2. That there is no substantial economic or other disadvantage to the Mendota State Hospital employees in continuing to wear gray uniforms.
3. That although white uniforms launder more easily, they soil more easily than gray, and hence require more laundering.

CONCLUSIONS

1. That the designation of white uniforms for female psychiatric aides in Mendota State Hospital would necessarily and unduly limit the choice in the other four state mental facilities for both male and female aides.

2. That gray uniforms are more appropriate and convenient for psychiatric aides because the color will not show soil during duty.

NOW, THEREFORE, IT IS DIRECTED:

1. That the use of gray uniforms, presently worn by psychiatric aides at Mendota State Hospital, shall be continued.

2. That this decision is to be reviewed in January, 1954, at a time and place to be mutually agreed.

3. That a continuing study shall be made pending review in January, 1954.

Dated at Madison, Wisconsin
this 24th day of December, 1952

/s/ John W. Tramburg, Director
STATE DEPARTMENT OF PUBLIC WELFARE

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Morale Rated High In Personnel Administration

IN its biennial report to the governor, the state bureau of personnel has presented many interesting phases of the employment operations that are its obligation.

Included in the various reports is one of special interest because it recently has been recognized as an integral part of the relationship between employer and employe. It applies equally to private industry and state employment and is entitled, "Attitude Survey."

"Leaders of business and government today are coming to realize that the most important part of any organization is the people in it, and that the question of how well an organization accomplishes its objectives depends greatly upon the cooperative spirit and unity of purpose of each member of the group," the survey points out.

Major Consideration

"Morale is thus becoming recognized as one of the major considerations in the whole field of personnel administration. Mechanical efficiencies pale into insignificance in comparison with the development in a group of employes of a feeling of unity of purpose, that can be seen as loyalty, enthusiasm, cooperation and pride in the job."

The growing awareness of this factor in the bureau of personnel has resulted in the establishment of a principle of 'equal pay for equal work' and of selection and promotions strictly on a merit pasis. The report continues,

"These are among the basic essentials for a high morale level in any working group. However there are other aspects of morale which need the serious consideration of administrators and supervisors. These include the kind of adjustment the employe makes to his job, to his fellow worker and his supervisors; his understanding of the importance of his job in the overall program and his sense of security on the job as well as his confidence in the purposes of his department and its leadership.

"You and Your Job"

Believing that 'charity begins at home' the personnel department conducted an experimental survey among its clerical workers in March 1951. The survey was to determine how the employes felt toward their jobs, fellow workers, policies and practices. The questionnaire, "you and your job" consisted of 31 statements, each with from two to five alternatives to be checked.

On the basis of the information obtained from the survey, the bureau declared that it has high praise for the procedure. The concensus revealed that certain areas of the department could be improved by positive action, and on the whole it stimulated employes to "think" rather than "gripe" about their jobs.

Departments of the state service were informed of the survey and encouraged to contact the bureau for additional information as to how it could be adapted to their own circumstances.

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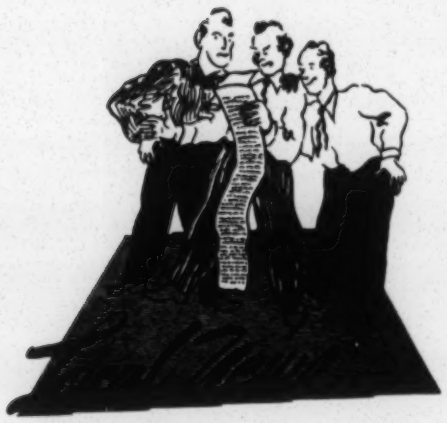


WIS. SCHOOL FOR BOYS

LOCAL 163, WAUKESHA

Our regular business meeting for January was held Wednesday, 7, at the labor temple. The attendance was the best in several months. The following were accepted for membership:

Donald J. Beck and Theodore Lowery, teachers; Earl Benge, youth counselor; William Tolbert, watchman; and Roy F. Hansen, youth counselor, reinstated.

Some of the legislative proposals to come before the present session of the legislature were discussed with much interest. We expect to have representatives at the hearing on the emergency salary increase bill and on other bills when hearings are held.

Jack Poad, a watchman who suffered a broken arm in an accident several weeks ago is back on the job and doing fairly well. At the present time our baker, Mr. Rosecky is sick in the hospital with heart trouble but we expect him back in two or three weeks. Several other members have been off for short periods with flu and colds but are now coming back. However, Mr. Johnson, our maintenance foreman, has just gone on the sick list, but we are hoping all will be well soon and everything will return to normal.

Our next business meeting will be held Thursday, February 12 at the Fox Head Brewing company's rathskeller.

Louis Mayer

UNEMPLOYMENT COMPENSATION DEPT.

LOCAL 145, MADISON

Unemployment Compensation Department Employes, Local 145, recently welcomed five new members to its organization. The new members are Eleanor M. Scheel, Merle H. Pierstorff, Gertrude H. Jacobson, Virginia Kerber, and Margaret O'Neill.

On December 18, 1952, the Union sponsored its annual Christmas party. The party was attended by 135 people, including union members, other Unemployment Compensation Department employes, and guests. The highlight of the party was a skit—a mock unemployment benefit hearing—written and directed by Austin Thorson of the appellate section. Taking part were Arnold Spencer, Ralph Kline, Neil Murphy, and Elnora Scannell of the appellate section, and Helene Cork of the addressograph section. Lots of good food, door prizes, and community singing rounded out the program. Individuals who acted as chairmen and who, with the help of their committees, were responsible for the success of the party were Harriett Callsen, Inez Carlson, Mary Rabyor, Henry Reese, and Mabel Mathias.

The January membership meeting was held on the evening of January 22 at the office at 137 East Wilson Street. Lunch was served after the business meeting, with Charlotte Vetter acting as chairman of the food committee. Ruth Blood showed colored slides of pictures taken by union members on their vacation trips. Those who contributed their slides for our enjoyment were Mary Phillips, Juanita Wilke, Martha Lound, Mary Cowles, Ivanell Croft, and Ruth Blood. The slides were pictures taken in America and Canada, all the way from California to Nova Scotia. The opinion of those present was that the slides were superior as to the beauty of the scenery, choice of subject matter, and ability of the photographers.

At a recent membership meeting President Gmeinder appointed Lewis Palmer to head a committee, whose duty it will be to issue a bulletin periodically containing news of legislative action on items of special interest to union members. Copies of these bulletins will be mailed to members who are located in district offices throughout the state.

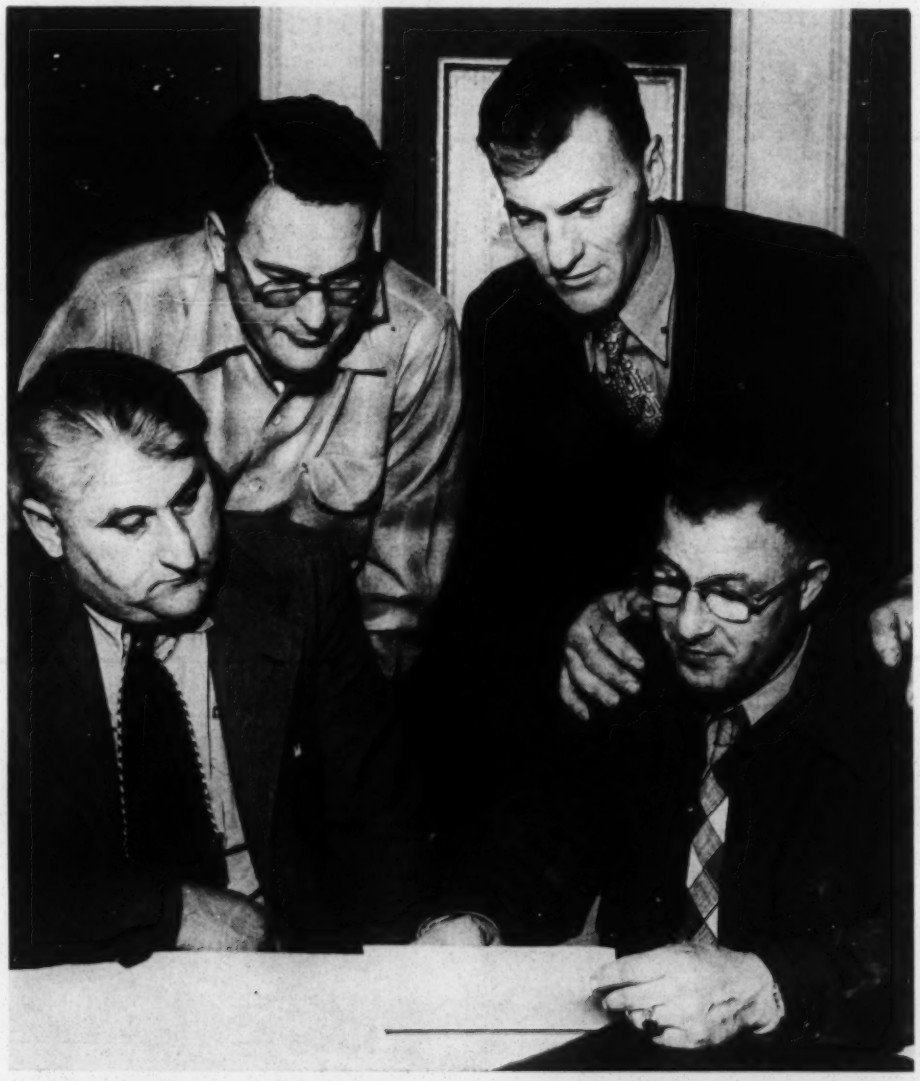
Ruth Williams

GRAND ARMY HOME

LOCAL 555 KING, WISCONSIN

On January 22, W.S.E.A. Local 555 held their second annual banquet. The members had the pleasure of having as

Conservation Wardens Elect Officers



The officers of Conservation Wardens, Local 1215, elected at the local's meeting in Wausau January 5, are shown above. Seated: Herb Vander Bloemen, Manitowoc, vice president; E. F. Evans, Superior, president. Standing: Allan Galston, Portage, treasurer, and John Marcon, Medford, secretary.

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our guest the Executive Secretary, Roy Kubista.

The local officers were somewhat perturbed about attendance because of the prevalence of influenza in the community. However, a delicious turkey supper was served to a fine group of members, guests, and friends.

One of our guests was the music teacher of Waupaca High School, Miss Mary Hanson. She led the group in the singing of some good, old-time favorite tunes. With Mary Peterson at the piano, the members responded generously.

We were happy to have with us also David Johnson, a twelve year old Waupaca student who sang several selections. David has an exceptional soprano voice, for he has appeared on Chicago radio and television stations.

Chief Surgeon, Dr. Hathaway, who was present with his wife, commented on the "esprit de corps" of the Employees' Association, and also thought it was the singingest" group he had ever heard.

We regret that Col. Stordock and Col. Jackson could not be with us because of illness and business. However, their wives pleased and surprised the listeners by coming through with a little speech each in turn.

At this point our capable vice-president, Mary Peterson, read an original poem written about the Home and its personnel. It was a nice piece of work.

Roy Kubista addressed the group on the pending social security program and some of the objectives of the State Employees' Association. Roy has not been here for more than five years, and we were all happy to see him. I am inclined to believe that Roy enjoyed talking to us, and his stories never got a better response or a bigger laugh anywhere.

President Gen Remmel thanked everyone who had contributed to the success of the party and we adjourned.

Parmo Hansen

The WISCONSIN STATE EMPLOYEE

ESTABLISHED 1932

MARCH, 1953

Volume XXII **Number 1**

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THE WISCONSIN STATE EMPLOYEE

ESTABLISHED 1932

Official Publication of the
WISCONSIN STATE EMPLOYEES ASSOCIATION

Council of State Employee Locals Affiliated with American Federation of State, County and Municipal Employees (AFL)

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Office of Publication
510 Insurance Bldg., Madison 3, Wis.
Phones: 7-1064 and 7-1065
Subscription Rate: 10c a copy
Published bi-monthly.

Marcia: "John, what does it mean when it says in the newspaper that a man went as a delegate at large?"

John: "It means that his wife didn't go with him."

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A noted big game hunter was reported missing. It is believed that something he disagreed with ate him.

* * *

Wife talking on telephone while husband glowers in background: "Just a minute, Elsie. I have to see if anything is burning besides Walter."

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PROBLEMS AND TRENDS IN WISCONSIN STATE GOVERNMENT

I. This is what we expect to do

--explore the reasons why a study of the problems and trends in Wisconsin state government and politics is important.

--discuss the scope and shape of things to come in Wisconsin government and some of the sources that may give us insights into the future

--find out what meaning these trends have for you as individuals, teachers, leaders in the community's life and thought

FEB 1957

Light on a Moot Point: GOVERNMENT UNIONS

By THOMAS FAIR NEBLETT, Labor Relations Consultant, Los Angeles

Mr. Neblett gave a paper entitled "Labor Management Relations in Municipally Owned Utilities" to the annual conference, 1946, of California Municipal Utilities Association. Two articles are based on this address.

(First of two articles)

Mr. Neblett brings the question up-to-date. A fair, considerate statement by an expert

THERE is no single subject of management which has caused so much public controversy and about which there will be found more divergent points of view and opinions as we convert our national economy from war to peace than labor-management relations. Just before the war, organized labor had arrived at a position of towering strength. During the war, labor gave up its final weapon, the strike, and in general faithfully adhered to the no-strike pledge of its leaders. In turn, its thousands of disputes with management were turned over to the Government and particularly to the War Labor Board for adjudication. During the past year, newspapers have been filled with stories of industrial conflict about which have centered much public and private debate. The entire current November issue of *Fortune* magazine is devoted to the subject "Labor in U. S. Industry."

Organized Labor Is Strong

The various organized labor groups now claim to represent 16,000,000 organized workers out of the approximately 44,000,000 employees in private industry. Throughout the recent years of experience under the Wagner Act and in the direct dealings between labor leaders and management representatives, an acceptable pattern of principles and procedures of collective bargaining has been forged in the inevitable heat of conflict in human interests. Although there are many jagged edges in that pattern which yet must be ironed out in terms of national policy and individual company procedure, we have in the main decided the fundamental issues in a democratic way. Employees have the unquestioned right to organize without restraint or interference; to bargain collectively for all under the democratic majority rule; and the right of contract—all of these are guaranteed by law and are accepted as responsibilities of industry.

With this background of conflict and experience in private industry, it is timely that we here now consider the rules which will govern labor management relations in public employment. According to the Bureau of Labor Statistics, U. S. Department of Labor, in July, 1946, approximately 6,000,000 persons were employed in the various departments of federal, state and local government. An additional 4,000,000 are employed in what might be referred to as proprietary government utility operations. It is only reasonable to assume that such a large segment of our working population will inevitably be involved in and affected by current trends in organized representation.

Those who assume that trade unions and collective representation will soon pass away are sadly mistaken and may be rudely awakened one day. Every management representative, whether in public office or private, can expect sooner or later to be faced with collective employee demands. Employees in private industry are protected by law in their right to organize, and in fact encouraged to exercise it. Although we may reasonably expect that in the near future unions will be disciplined and restricted by legislation as employers now are, there is no reason to expect that unions are going to be disorganized. The roots of collective representation run so deeply in American public acceptance that refusal by management to meet with union leaders will be unheard of.

Public employees are reacting to the same normal motives in associating themselves for common action. Whatever personal views a public administrator may have when directly confronted with such activity in his department, he owes it to himself, and most of all to the public he serves, to base his decisions upon principles which meet present-day tests of validity.

Public and Private Employment

Before going on to a consideration of the major questions which must be faced in developing sound policy, I should like to point out the difference in the employee-employer relationship in public employment as compared with private industry. Later on I shall point out the similarities of the relationship particularly where some or all of the jobs are similar to or can be compared with jobs in private enterprise.

Private employers adopt company policy toward employees designed to promote the success of their enterprise. That success is measured in terms of profit. If unrestrained by law, company policy may bear no relation to employee welfare, nor give regard to the general desirability of a constantly rising standard of living. It is therefore proper to restrain freedom of the private employer to some degree and to safeguard the right of the workers to combine with each other, and to use strength of organization in the matter of wages, hours and working conditions and to strike if necessary. As Judge Shinn, of the California District Court of Appeals wrote in the Santa Monica Bus case decided April 30, 1946 (*Nutter et al v. City of Santa Monica*) (168 Pac. 2nd 194) (18 LRRM 2156):

> "It is well recognized that a serious obstacle in the way of better labor relationships has been the reluctance of employers to concede a greater share of the profits of industry to labor, whether in the form of higher wages, shorter hours, or other privileges the expense of which would be borne by employers and which would present the threat of reducing profit."

Altogether different conditions prevail in public employment. There is no incentive to public administrators to oppress the worker. The profit motive is removed. Public officers do not have the same freedom of action as private employers. Their authority is derived from the ultimate employer, the public.

Federal law and, in California, State legislation clearly enumerate the right of employees to organize and to strike in private industry and the obligation of private employers to bargain with union representatives if employees organize. The National Labor Relations Act and the California Labor Code provide for freedom of association, self-organization, designation of representatives, to negotiate terms and conditions of employment without restraint or coercion by employers. However, Section 2(2) of the National Labor Relations Act specifically excludes as an employer the federal, state or local government. And in the most recent decision on the California law, the Supreme Court held in the Santa Monica Bus case that:

> "... it was not the purpose of the Legislature, in the enactment of Section 923 (of the Labor Code), to inaugurate a state policy with reference to labor relations which would be applicable to the state or its political subdivisions."

What Should Policy Be

So, in the absence of such law as has been the guide in the conduct of labor-management relations in private industry, what should the policy of a municipal of[illegible] with respect to unionization of e[illegible] under his supervision? Rather than [illegible] ing general discussion let us ask [illegible] tempt to answer four key questions.

Whereas, these questions shall be analyzed and answered in terms whic[illegible] primarily to municipally-owned ut[illegible] they apply as equally to all g ver[illegible] service. The approach shall not be te[illegible] legal or abstract, but rather to r[illegible] to draw from the actual practic[illegible] periences of various public agenc[illegible] retically, in public employee-emplo[illegible] tions, there is no distinction drawn between the exclusively government function, such as postal service, or fire and police protection on the one hand, and government functions in the "proprietary" sense, such as the operation of systems of transportation or power and water supply. Actually, when considered historically and administratively, there is a difference which affects managers and employees in a practical way. The work and the worker are influenced by their competitive relationship to private enterprise directly and indirectly and monopoly is not guaranteed except by a satisfied public.

Proceeding objectively, however, there is no legitimate nor legal ground to distinguish between the strictly governmental and proprietary functions of a body politic as far as collective representation is concerned. The experiences of the various federal agencies in their relations with organized employees offer more precedent perhaps than state agencies. However, neither the Federal Government nor the State of California make any such distinction. In other words, generally speaking, both as to state and federal policy, the rights of employees

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and responsibilities of management are the same whether the employees involved are postmen, firemen or policemen on the one hand or craftsmen of a public utility on the other.

1. *Should employees in municipally-owned utilities be permitted to join a union?*

As a matter of policy and as a matter of administrative practice, both the federal and state governments would protect the right of self-organization and self-chosen representation.

The U. S. Civil Service Commission regulations are clear on this point. Department Circular No. 251, dated February 24, 1941, in connection with plans for settling employee grievances states:

"The commission believes that all plans should recognize the rights of an employee to join or refrain from joining employee organizations or associations without interference, coercion, restraint or fear of discrimination or reprisal because of such membership or non-membership."

Thus, an obligation rests upon government institutions as well as upon employee associations not to interfere with the individual employee's freedom of choice.

President Roosevelt in a letter to the president of the National Federation of Federal Employees, under date of August 16, 1937, expressed the following views:

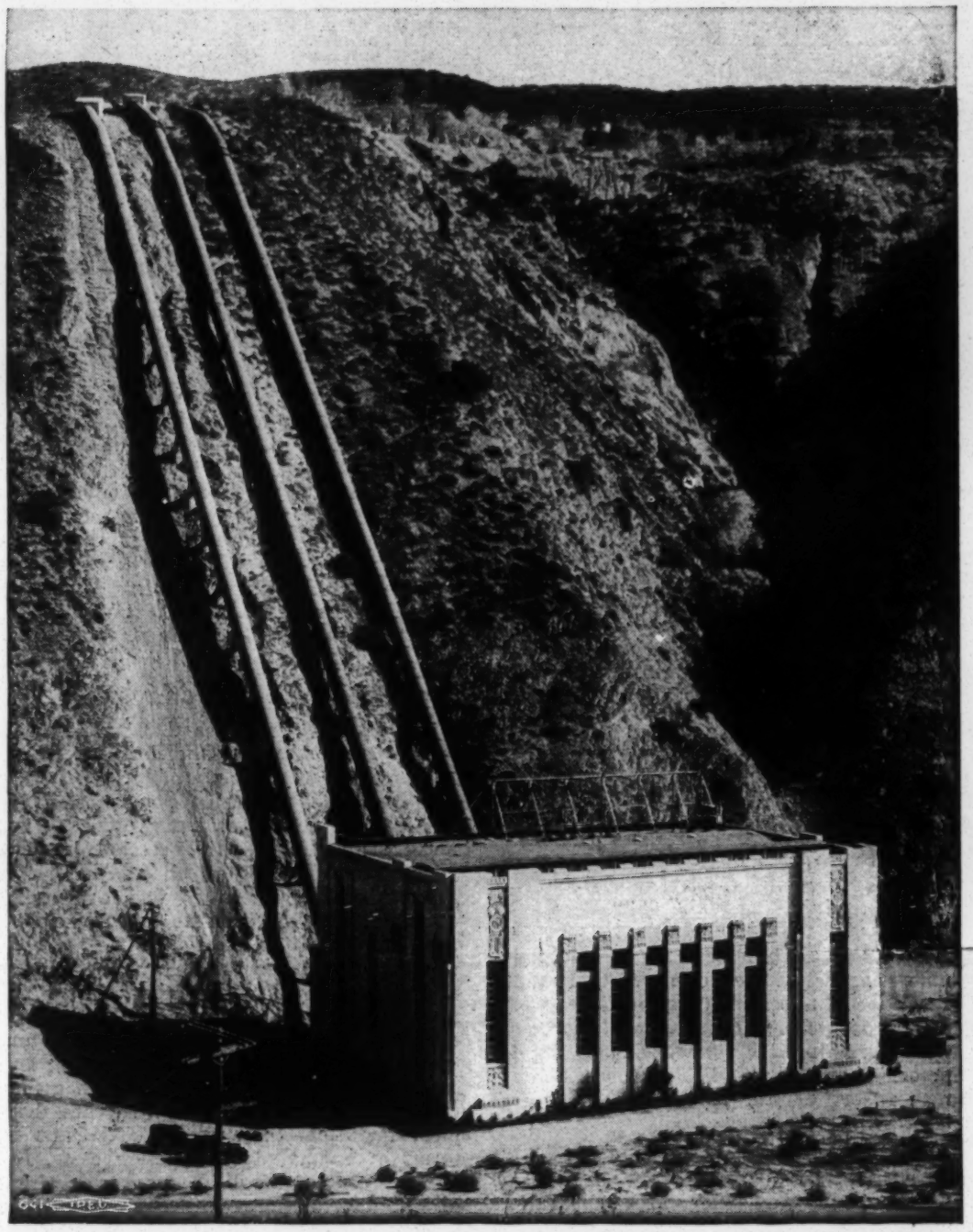
"The desire of government employees for fair and adequate pay, reasonable hours of work, safe and suitable working conditions, development of opportunities for advancement, facilities for fair and impartial consideration and review of grievances; and other objectives of a proper employee relations policy, is basically no different from that of employees in private industry. Organization on their part to present their views on such matters is both natural and logical, but meticulous attention should be paid to the special relationships and obligations of public servants to the public itself and to the government.

"All government employees should realize that the process of collective bargaining, as usually understood, cannot be transplanted into the public service. It has its distinct and insurmountable limitations when applied to public personnel management. . . . The employee is the whole people, who speak by means of laws. . . . Accordingly, administrative officials and employees alike are governed and guided, and in many instances restricted, by laws which establish policies, procedures, or rules in personnel manners."

President Roosevelt understandingly set forth a sound blue print as to the rights of government employees to organize for the purpose of presenting to the government their views which local governments could well afford to use in modernizing their employer-employee relations machinery.

There is no law of this state which forbids or renders unlawful the organization of public employees for their mutual welfare and benefit. They have the same right to mutual help and assistance as other citizens have, and to group together for concerted action to secure such benefits. (*Hagen v. Picard*, 12 N. Y. S. (2) 873).

It is generally agreed that public employees as well as private employees should have the right to join a bona fide union.



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TYPICAL WESTERN POWERHOUSE

Before passing on, however, there is a notable exception to this rule which should be brought to your attention. In June of this year Congress passed an amendment to the appropriations act of most agencies which required that before a federal employee was paid his salary, he was required first to sign the following oath:

"I do solemnly swear (or affirm) that I am not a member of any organization of government employees that asserts the right to strike against the Government of the United States of America and will not, during such period of time as I am an employee of the United States Government, engage in a strike against the Government of the United States of America nor become a member of any organization that asserts the right to strike against the Government of the United States of America;

"That I do not advocate, nor am I a member of any organization which advocates the overthrow of the United States of America by force or violence."

In Great Britain civil service regulations go a little further. Permanent employees of "the Crown" are prevented from joining "outside" unions which include non-civil servants. In practice the rule has rarely been enforced, particularly in what we call "proprietary" operations. Furthermore, when the present Labor government came into power it immediately announced it would abolish the restriction.

Back to America—obviously any government would be justified in discharging an employee who advocated or joined an organization which advocated the overthrow of the government by force or violence. Such dual allegiance will not be condoned.

It is now generally agreed, however, that a public administrator should permit employees to form independent groups or to join labor organizations which are not in opposition to the public interest. In a democracy he must preserve impartiality and deal with such personnel problems open-mindedly as they arise. So far as I know, all of the A. F. of L. organizations give up the right to strike when representing government. Whether they do or not, the next question is nevertheless raised.

(Continued on page 69)

Public Works Shelf

New PLANNING Tool

U. S. Public Works Agency cooperating with 2,174 different local public bodies throughout nation

ONE of the more expensive lessons which came out of the great depression of the 1930's was that it is too late to develop plans for comprehensive public works programs after millions of men are unemployed. Planning, engineering, land-acquisition and other preparatory work are time consuming and expensive but must be completed before the actual job-creating construction work gets under way. Lack of such prepared plans can only result in the adoption of a program of expensive made-work projects such as the PWA was forced to inaugurate in its early days.

Farsighted statesmen in Congress have attempted to profit by this experience. In 1944 steps were taken to encourage the building up of a backlog of planned state and local public works projects. Title V of the War Mobilization and Reconversion Act created the Bureau of Community Facilities in the Public Works Agency with the responsibility of helping to build up a reserve of fully planned state and local public works, and authorized advances of Federal funds to state and local governments to assist them in making these plan preparations.

Advance Planning Program

By the end of June 1946, the advance planning program of the Bureau of Community Facilities had been in operation for approximately one year. Current economic forecasts which are predicting at least a mild depression sometime in 1947 endow the progress report of the bureau with a timely interest.

The data presented in the report indicates that a reserve of planned public works of moderate volume now exists and is slowly being increased through the concerted efforts of state and local governments and the Federal Government.

At the outset of the program there was a very serious and widespread inadequacy in advance plan preparation. This was to a large extent due to lack of funds available for advance planning, since such funds are often not available before bonds are issued for construction. Federal assistance is, therefore, being offered through this program in the form of advances to state and local public bodies to be used in financing the advance planning of their public works; such advances are to be repaid, without interest, when construction is started on the public works planned.

Reserve of Public Works

The bureau recognizes that a reserve of public works designed to relieve future unemployment should probably consist of projects which could be postponed for a considerable period, as being desirable but not greatly needed at the present time. The agency found, however, that communities are not greatly interested in the planning of projects of only remote usefulness, and the planning of such projects has not been urged. On the contrary, it has given increasing approval to advances for the planning of the types of public works that are essential to the expansion of housing and of industrial construction. Sewer, water and sanitation facilities, schools and other educational facilities, and hospitals and hospital facilities—these together account in terms of estimated construction costs, for 74.2 per cent of the public works for which advances were approved through June 1946.

Housing projects, as such, are not eligible to receive planning advances under this program; nor are planning advances made for those highway and road projects for which planning advances are already available under the Federal-aid highway program. All other non-Federal public works that the applicant expects to construct within four years after the receipt of the advance are eligible for planning advances.

A total of $65 million has been appropriated for this program—$17.5 million in May 1945, $12.5 million in December 1945, and $35 million in June 1946. Sums aggregating $2,083,000 have been made available for administrative use from these appropriations leaving a total of $62,917,000 available for planning advances.

The bureau reports show that advances approved through June 1946 are for plan preparation of public works having an estimated total cost of $1,110,227,000 and an estimated construction cost of $929,948,000.

There are 2,174 different public bodies scattered throughout the country to which planning advances have been made; and the plan preparations have required the services of 623 architectural firms and 471 engineering organizations. The total volume of public works that can be planned with the $65 million thus far appropriated is estimated at about $2.1 billion in terms of present construction costs.

Program Is Extensive

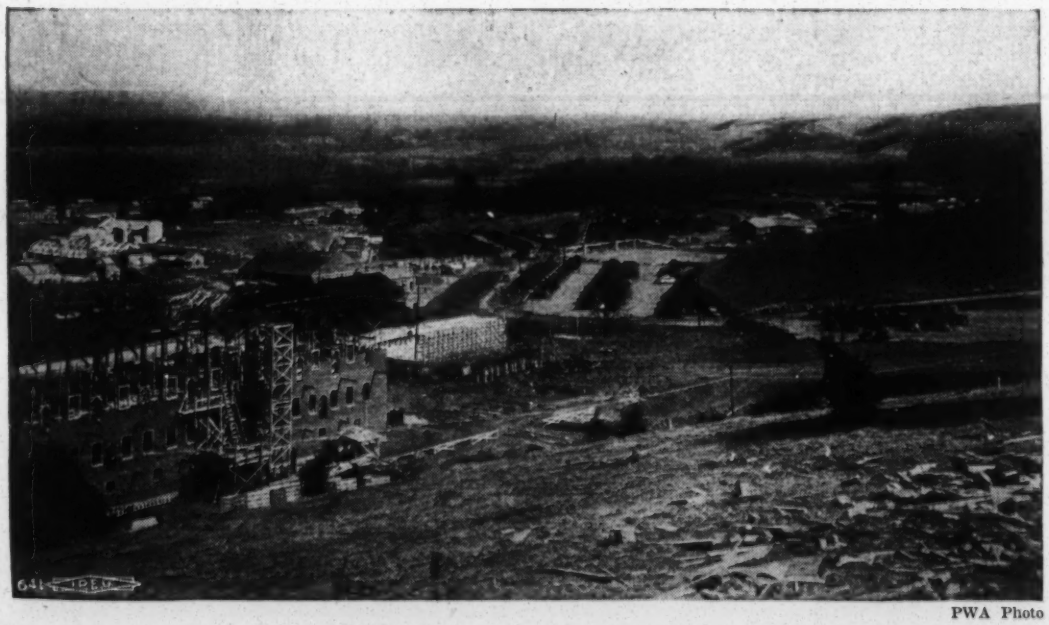
The bureau's program of planning advances has a broad geographical range and extends increasingly into the smaller-sized governmental units of the country. In these respects it serves to complement the planning carried on without Federal assistance —for such state and local planning has tended to be very heavily concentrated in a few states and in a few large cities. There are, however, serious gaps in the reserve thus far, due to the fact that plan preparations for public works are still lacking in a good many communities.

The purpose of all this planning activity, as intimated earlier in this article, is the building up of an adequate reserve of non-Federal public works, fully planned and ready to be put into construction as economic conditions warrant. As an initial objective, there was sought the planning of a reserve of such public works amounting to $5 billion in construction costs, exclusive of Federal-aid highway work. There is still a long way to go before this goal is reached. Industrial states and large cities have a major proportion of the country's total volume of plan preparations for public works; and this is as it should be. But the present distribution indicates a sparsity of plan preparations in the rest of the country generally. Of the 11,926 governmental units reporting on the status of planning without Federal aid as of June 30, 1946, 7,167 units or 60 per cent, showed no plan preparations in either the completed or the design stage. These units with no plans include 275 cities and towns of over 10,000 population, 1,311 towns with population between 2,500 and 10,000, and 1,622 counties.

Planning Categories

Three categories of planning are summarized in the report of the bureau. In the first category are plans being completed under Title V, War Manpower and Reconversion Act of 1944. Of these plans, the estimated construction cost of proposed public works of state and local governments amounted to $33,541,000 in the completed stage and $896,407,000 in various stages of completion.

(Continued on page 80)



PWA Photo

Public works during the war period.

turned from England, happened to come across a bag of nuggets below decks. They turned the same over to Captain Edger M. Kent, industrial manager, U. S. Coast Guard, who in turn had them analyzed. The result was nothing more than "spelter" or impure zinc, the cache, if it had been real gold nuggets would have been worth around $21,000, according to a quotation from the *Baltimore Evening Sun*.

Our entertainment committee is now proceeding with its plans for 1947.

Our first meeting in January calls for movies, after our regular order of business is dispensed with. Gosh, there goes that "Should auld acquaintance" song again.

Happy New Year!

REUBEN SEARS, *P. S.*

L. U. NO. 1439, ST. LOUIS, MO.

Editor: We take this opportunity to wish success to the new International officers. Let's all work together with these men in strengthening the I.B.E.W., to the end that it will become one of the strongest unions in the world. Our local is very new in this organization but we already have seen the advantages offered by the International. We are glad that during the year 1946 we became a member of it and we pledge our whole-hearted support.

Our contract was drafted but at the present time we are having trouble getting it printed. Our wage negotiations are stalemated. A strike-notice vote was taken at our last meeting.

Our first apprentice training plan is working in the substations department. Other departments are to follow shortly.

Our new office is in the I.B.E.W. Building, Boyle and Gibson, St. Louis, Missouri.

Well, here's hoping that in the next issue we'll be able to tell you about our wage increase.

K. E. GERDES, *P. S.*

GOVERNMENT UNIONS

(Continued from page 53)

2. *Do public employees have the right to strike?*

The courts have never passed directly upon the right of government employees to strike. However, striking against the government would at present probably be held illegal because the terms and conditions of employment are fixed by law and not by private contract and for the further reason that the public welfare and vital public services would thereby be affected.

President Roosevelt in the letter dated August 16, 1937, referred to a few moments ago, stated:

"I want to emphasize my conviction that militant tactics have no place in the functions of any organization of government employees. Upon employees in the federal service rests the obligation to serve the whole people, whose interests and welfare require orderliness and continuity in the conduct of government activities. The obligation is paramount. Since their own services have to do with the functioning of the government, a strike of public employees manifests nothing less than an intent on their part to prevent or obstruct the operations of government until their demands are satisfied. Such action, looking toward the paralysis of government by those who have sworn to support it, is unthinkable and intolerable."

Despite wide-spread recognition of the peculiar position of civil servants, according to David Ziskin in his book "1,000 Strikes of Government Employees" (1940), since 1835 there have been 1,116 strikes of public employees. Mr. Ziskin concludes that the strike is nearly always a measure of desperation and if conditions are sufficiently bad, it will be employed whether or not its use is legally recognized.

Mosher and Kingsley conclude in their book "Public Personnel Administration" (1941) that:

"striking on the part of public workers does not seem to be a hazard to the public welfare as a practical matter, nor does legal prohibition on this right appear to be justified on a theoretical basis. But in the event the freedom of action of public employees is to be restricted, the State should also accept restrictions upon itself as employer. It must be willing to accept employee organization and representation, to heed the requests of workers, when reasonable, and to adjust grievances promptly and amicably. . . . To deny to any group of employees the right to strike against intolerable conditions is to reduce them to a form of slavery. If strikes in the civil service are contrary to public policy then clearly, unsatisfactory working conditions in the public services are against public welfare."

In its recent report on "Employee Organizations in the Public Service," the National Civil Service League concluded:

"It is the duty of the State to avoid unfavorable conditions of public employment and provide adequate machinery for the prevention and removal of employment problems at their source. But when the State fails in that duty it still remains the obligation of public employees to limit the presentation of their case to peaceable methods."

Aside from the question of right to strike, as will be seen in the answer to questions which follow there are ways to avoid and prevent strikes.

From the somewhat theoretical questions we go now to the consideration of a very practical one.

3. *If employees form a union, should a municipal utility recognize it?*

The most significant recent development in California on this point is the decision of the State Supreme Court in the case of *Nutter v. City of Santa Monica*, previously referred to. The Brotherhood of Railroad Trainmen had demanded recognition on behalf of the city's bus operators. The city took the position that the employees may become members of the Brotherhood or of any other organization and that such organized group may make representations or suggestions on behalf of the employees and otherwise advocate the cause of its members. The city refused to recognize the union in writing or otherwise as the representative of all employees for the purposes of negotiating a contract. The court held that Section 923 of the State Labor Code does not compel a municipality to recognize a union in the sense that unions are generally given recognition in private employment where the majority of the employees involved belong to it.

Most unions of public employees will not insist upon exclusive recognition in the traditional sense and will be satisfied if the head of the agency will allow the union on behalf of its members to petition and present evidence and argument on matters which can be determined within the discretion of the agency head.

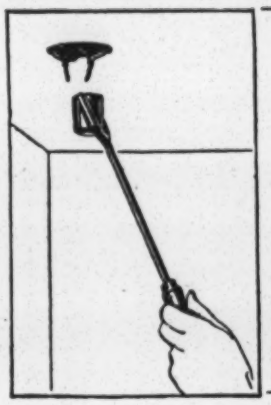
Senator Wayne L. Morse, while a member of the National War Labor Board, expressed the opinion of the Board in the case of the City of Newark (5 WLR 286):

"The refusal of many government agencies or political subdivisions to even discuss grievances and employment problems with labor organizations representing their employees is provocative of much ill will within government services and results in the perpetuation of many injustices and unfair discriminations. The solution of these problems rests primarily with the electors in the divisions of such government concerned.

"Nevertheless, much of the responsibility for the existing unrest and dissatisfaction among government employees can be placed squarely at the door of those few administrative officials of government who, by their records, show that they have taken a very uncompromising and unenlightened attitude toward the problem of discussing labor relations problems with public employees coming within their jurisdiction."

Enlightened public management policy requires that municipal officials permit employees to band together and to meet with an open mind the self-chosen representatives of employees whether those representatives come from within the service or outside of it. There is no question, according to the attorney-general of the State of California in his opinion in the case of the *Housing Authority of the City of Richmond* (Opinion NS 5630, dated August 24, 1944) but that such authorities have power to meet with the chosen representatives of their employees.

(To be continued)



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NAVY

(Continued from page 57)

ish forces were many times greater, so the colonials limited themselves to attacking the British shipping with the purpose of taking prizes.

There were two important incidents on water during the Revolutionary War. In the summer of 1776 General Arnold, upon his retreat from Quebec, built a flotilla on Lake Champlain with which he delayed the advance of the British Army into New York. Canadian workmen eventually outbuilt his navy and destroyed it, but by delaying the advance of the British for a year, the English were not able to withstand the rallied American forces at Saratoga.

The other most important single incident at sea was the encounter of John Paul Jones in the "Bon Homme Richard" with the English "Serapis" in 1779. The latter was heavily armed and more tractable than Jones' ship, but the clever Scotchman managed to engage it for three and a half hours on a moonlit night until the British commander surrendered. The fight was in no way of decisive naval importance, but it did establish a reputation for American naval enterprise on the continent and inspired the colonials in rebellion at home. Jones, whose own ship sank the next day,

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boarded the "Serapis" and took it back to France. This was not the first time that he had captured a superior ship or served his adopted country valiantly.

After the war, the Navy fell apart since Congress failed to continue appropriations for its support. In 1794, however, Congress authorized a fleet under the War Department to protect American shipping from the pirates of the Barbary powers. These professional plunderers were highly organized and operated in peacetime with the same government sanction that the American privateers had during war. They were located all along the northern coast of Africa in Morocco, Algeria, Tunisia and Tripoli. Their power waxed for several centuries and was only finally surpressed by the French in 1830 when the latter invaded Algeria.

The craft built as a result of the Act of 1794 were six ships of 248 guns, designed by the best talent in the country. They were manned by nearly 2,000 men and officers and were peers of any in their class. As the ships were nearing completion in 1798, Congress created a Navy Department under a Secretary of the Navy with cabinet status.

The operations against Tripoli in 1803-5 were successful and after that the independence of the Navy was assured. Before the war of 1812 the Navy increased its tonnage to 14,260 and its officers and men to 5,500, with 1,300 marines besides. At first the Americans were able to carry out several daring attacks on English shipping and bring its own cargoes into port, but soon the British Navy proved more than a match for it and the United States harbors were blockaded and our ships cleared from the seas.

Between the War of 1812 and the War Between the States the condition of the Navy was poor. Attempts were made several times to reorganize it, but Congress never saw the basic problems involved in establishing, maintaining, staffing and employing a first rate organization. The need for an extensive fleet was never pressing except in time of war, and even then, as in the Mexican War, although the Navy did very effective and important work, its roll was not a particularly exciting one.

The War Between the States was the occasion of a great expansion from 10,000 to 60,000 men, and from 133,000 to over 500,000 tons of shipping. The duties of the Navy were to blockade the coasts of the Confederate States and prevent shipping on the Mississippi. The thoroughness with which it accomplished this was a major element in contributing to a Union victory. During this war an assistant secretary was appointed to direct operations and practically to assume the duties of a chief-of-staff, an important administrative change, which was abolished, nevertheless, once the war was over.

The Spanish-American War of 1898 brought home to the Americans that they were now a world power needing more extensive defense machines if they intended to contend with other more militaristic and imperialistic nations.

WALL STREET

(Continued from page 47)

Mrs. H does her own housework, with the help of a cleaning woman who comes in once a week to clean and wash. "We have a real bargain there," Mr. H says. "She charges only 40 cents an hour, carfare, and her meals on the job."

Wonder if Mr. H ever gives any thought to how the cleaning woman gets along in these days of high living costs on that 40 cents an hour.

Now we come to the saddest story of all, that of Mr. C, the $200,000-a-year executive of one of the country's top industrial concerns. The headline says, "Mr. C Finds $200,000 Income Shrinks to $36,611 Take-Home Pay. Big Executive Drops Insurance Program; Cuts Clubs, Buys Autos from Savings."

The story calls attention to the fact that "Mr. C's financial problems are not peculiar to him. They are typical of a general belt-tightening by most people earning more than $100,000 a year. During the past five years, their net income or take-home pay has shrunken tremendously, while their living costs, as everywhere, have been inflated."

"The drop in income is bad enough," says Mr. C, "but when it is accompanied by a rise in living costs, brother, it really pinches."

Mr. C did admit to the reporter that he felt he was doing pretty well in spite of these difficulties, and changes in his living standards. Some of his acquaintances are not so fortunate. One of his friends recently was voted a $30,000 salary increase by his company's salary committee but he rejected it because he figured it would have netted him considerably less than $2,000 after Federal and state taxes. Furthermore, he felt that if he had accepted the increase it probably would have made some of the stockholders and employees mad. And, he reasoned, it wasn't worth it for only $2,000.

The reporter suggested to Mr. C that in view of the fact that taxes take so much of their income, why not pay executives less and help them reduce their tax bills? Here's what Mr. C is reported to have said about that:

"Just as profits are the measuring stick which judge the efficiency of management, the salary received by a member of management is the standard by which he is judged not only by others but in his own estimation. It is also the most practical method of rewarding ability. Also, high executive salaries are an energizer to inspire those down the line to equip themselves for the higher jobs."

They'd better not let the junior executives read about the tough time the top men have getting along on those big salaries or nobody will want the job when the old man dies.

The tip-off as to what is behind the series of stories is found in the final paragraph of the interview with Mr. C. When he was asked if he could see any chance for improvement in his financial position here is what he said:

"At my age (he's in his middle sixties) nothing can help my financial position except lower taxes."

All of the stories brought out the large slice of income which went for taxes, and pointed to it as the source of most of the financial difficulties of the men interviewed. Well, they should all be a lot happier when Congress passes Mr. Knutson's tax bill reducing the personal income tax by 20 per cent.

But at a time when all year-end reports show that we have never been so prosperous, there is some logic on the side of those who feel that government expenses should be reduced and the public debt paid off or at least partially funded, before taxes are cut. Tax cuts at this time will only add to inflationary forces already putting serious strains on our economy.

CALORIES

(Continued from page 61)

Food	*Amount*	*Calories*
Beets	½ cup	45
Broccoli	1 cup	40
Cabbage	1 cup	25
Carrots	1 cup	65
Celery	6 stalks	15
Corn—canned	½ cup	100
" fresh	1 ear	60
Cucumber	12 slices	10
Lettuce	1 large head	50
Peas—canned	½ cup	55
" —fresh	½ cup	75
Potatoes—baked	1 medium	100
" —boiled	2 small	100
" —fried	4 slices	100
" —chips	¼ cup	100
" —sweet	1 small	150
Spinach	1 cup	40
Tomatoes—canned	1 cup	50
" —raw	1	35
Desserts		
Cake—chocolate	Average slice	350
" —pound	" "	175
" —sponge	" "	100
Cookies—ginger	1	50
" —chocolate	1	125
Ice Cream—		
plain vanilla	½ cup	100
chocolate	½ cup	250
chocolate sundae	½ cup	400
Pie—all fruit pies	one-sixth of pie	350
Candy—		
average 5-cent bar	1	400
average chocolate	1	100

Well, there's a partial calorie list for you and here's good luck and good will pour to you.

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C O N S T I T U T I O N

of the

Milwaukee County District Council #48

American Federation of State, County and Municipal Employes

A.F. of L. - C.I.O

Amended
6/28/57

CONSTITUTION

of the

Milwaukee County District Council #48 of A.F.S.C. and M.E. Local Unions.

ARTICLE I

Name and Headquarters

Section 1: The name of this organization shall be Milwaukee County District Council #48 of A.F.S.C. and M.E. Local Unions.

ARTICLE II

Affiliations

This Council shall be affiliated with the American Federation of State, County and Municipal Employes, The Wisconsin State Federation of Labor, the Milwaukee Federated Trades Council, State CIO and County CIO.

ARTICLE III

Objects and Methods

Section 1: The objects of this organization shall be, in general, the objects of the A.F.S.C. and M.E. and:

a. To unite the locals of A.F.S.C. and M.E. in Milwaukee County for mutual welfare, protection and advancement.

b. To work for the establishment and maintenance of fair wages, hours, working conditions and civil service classifications.

c. To coordinate legislative programs of the A.F.S.C. and M.E. local unions in Milwaukee County

d. To represent local unions before state and local legislative bodies and to arrange for appearance on behalf of local unions before councils, commissions and committees.

e. To assist member locals with organization problems, publicity, and promotional work in general.

f. To foster and promote a better understanding between public employes, officials, and the public.

Section 2: The methods of obtaining the objectives of this council, shall be by giving a full measure of support to the A.F.S.C. and M.E., by petitioning, by creating and fostering sentiment favorable to proposed reforms, by cooperating with state and local officials, by promoting legislation, by entering into collective bargaining agreements with county commissions and municipal governments employing members of affiliated locals and by other lawful means.

ARTICLE IV

Membership

Section 1: All local unions in Milwaukee County regularly certified or chartered by the A.F.S.C. and M.E. shall affiliate with this council.

Section 2: The application from each local applying for affiliation with this council shall be sent to the secretary of the council. Membership applications received shall be presented by the secretary at the next following meeting of the council executive board.

Section 3: Per capita tax shall be paid to this council by member locals at the rate of not less than One Dollar ($1.00) per month per member. Monthly reports to the council shall be made on the same number of members reported on month to month to the national office of the A.F.S.C. and M.E. by no later than the 15th of the following month.

Section 4: Per capita tax payments are due the first of the month for dues collected the previous month. Locals that fail to pay the monthly per capita tax, any assessment or other indebtedness to the council by the close of business on the fifteenth day of the following month shall be notified promptly by the treasurer, and if at the end of two months, inclusive of the 15 days, a local is still in arrears it shall be suspended from membership, and its members shall forfeit all rights, privileges and benefits.

ARTICLE V

Meetings

Section 1: The council shall meet monthly at such time and place as the delegates may select.

Section 2: A special meeting of this Council may be called by a majority of the member locals of the Council by filing a request therefor with the President, which petition shall name the time and place for the meeting which shall be no sooner than fourteen days subsequent to the date of such filing and the President shall immediately issue a call to the locals.

Section 3: All sovereign power and authority of the organization shall originate in meetings of the council. Delegates to these meetings shall determine matters of policy, and may delegate such authority as they may determine. A meeting of this council shall be the court of last resort for all appeals which may be made by any member from any decision of any body or committee of the Council except as provided in Article X of the constitution of the A.F.S.C. and M.E.

ARTICLE VI

Officers and Committees

Section 1: The officers of this council shall be a president, a vice-president, a secretary, a treasurer, and 13 (thirteen) additional members, and these 17 (seventeen) together shall constitute the executive board of the Council. Not more than two members of the executive board shall be selected from any one local union in any one year. The officers shall be elected and installed at the annual meeting of the council.

Section 2: Nominations for officers shall be made from the floor. Only duly accredited delegates shall be eligible for nomination.

Section 3: Officers shall be elected by secret ballot on a majority vote of the delegates present at the annual meeting of the council. When more than two candidates are nominated for one office and a majority vote is not obtained, the candidate receiving the lowest number of votes shall be dropped until a majority is obtained. The annual meeting shall be held in the month of June.

Section 4: No person shall be eligible for office in this council unless he is a member in good standing of a local union affiliated with the council and he and his local union must continue in good standing to continue in office.

Section 5: Removal from office.

a. Any officer whose leadership and actions are not such as to inspire confidence, keep members active, benefit the members, or serve them as they should be served to maintain and advance the organization, may have charges preferred against him and be tried for removal from office.

b. Any officer of the council may be removed from office when charges preferred against him are sustained by a two-thirds vote of the council, after charges have been preferred in wirting and the officer has been given an opportunity for hearing. This officer shall have the right of appeal to the president of the A.F.S.C. and M.E.

c. Unexcused absence of an officer from two consecutive board meetings shall automatically vacate his office.

Section 6: Vacancies in office shall be filled for the remainder of the unexpired term by a two-thirds vote of the executive board.

Section 7: No elected officer of this council shall be paid any salary or wages for services rendered in his elective capacity, but an elective officer may be selected by the executive board to serve in other capacities as for instance, legislative representative or any office to which he must devote full time for which remuneration may be allowed.

Viewpoint

Section 8: The executive board shall appoint such standing committees as may be required by the by-laws. The president shall appoint such special committees as he may be authorized to do by the executive board of the council.

Section 9: All books, records, and financial accounts of the council shall at all times be open to the inspection of national officers or assigned representatives of the A.F.S.C. and M.E. or any duly authorized representative of any member local union of the council.

~~Section 10: Any and all paid representatives of the council shall be required to make a report of their activities to the executive board.~~

Section ~~11.~~ 10. The executive board shall employ an executive officer with the title of executive director.

ARTICLE VII

Method of Amendment

Section 1:

a. Proposed amendments to this constitution shall be submitted in writing to the executive board at least thirty (30) days prior to the meeting of the council at which a vote is to be taken. The proposed amendments and the recommendations of the executive board shall be submitted to the next meeting of the council. A two-thirds majority vote of the delegates present at that meeting shall be necessary for adoption.

b. Amendments may be submitted from the floor by a two-thirds majority vote of the delegates present, provided that such amendments shall be referred back to the local unions for ratification. A two-thirds majority vote of all local unions will be necessary for such ratification.

Section 2: This constitution and all amendments thereto shall be subject to ratification by the American Federation of State, County and Municipal Employes, AFL-CIO.

BY-LAWS

MILWAUKEE DISTRICT COUNCIL # 48

AFSCME - AFL-CIO

ARTICLE I

Duties of Officers and Committees

Section 1: The president shall act at all times in a manner which will maintain the organization and benefit its members. He shall preside at all meetings of the Council and at all meetings of the executive board, and shall be a member ex-officio of all committees. He shall sign all authorized orders on the treasury and countersign all checks drawn against the funds of the Council. At the conclusion of his term he shall submit a report to the Council regarding the progress and standing of the Council and regarding his official acts during his term of office.

Section 2: The vice-president shall assist in general work among the members to keep the organization active and shall assist the president in giving the Council tone and direction. In the absence of the Council president or in his inability to serve, the vice-president shall preside at all meetings and perform all duties otherwise performed by the president.

Section 3: The secretary shall keep a record of the proceedings of the executive board meetings and of the meetings of the Council and shall perform such duties as may be required by the executive board.

Section 4: The treasurer shall receive and take charge of all monies and properties of the Council. He shall deposit all monies so received to the credit of the Council in a bank, or banks, selected by the executive board. All disbursements shall be made by check. All checks must be signed by the treasurer and countersigned by the president. The treasurer shall be responsible for payment of the annual affiliation fee of $5 from the Council to the International Union. The treasurer shall keep an accurate record of receipts and disbursements, and shall render a report thereon at each meeting of the Council. He shall submit his books and records for audit when required by the Council. He shall at the expense of the Council and through the A.F.S.C. and M.E. give a surety bond for an amount to be fixed by the executive board. He shall notify in writing any bank, or banks, wherein Council funds are deposited that the Council empowers the national office to stop withdrawals and take charge of all Council funds when in the judgment of the national office such action is necessary to protect the welfare of the Council or its member locals. A copy of such notice shall be furnished the national office.

Section 5: There shall be a sergeant-at-arms who shall be elected annually by the delegates to the District Council. It shall be his duty to assist the President of the Council in maintaining order and to engage in such other activities as the executive board shall assign to him.

Section 6: Duties of the executive board:

a. The executive board shall be the governing body of this council between meetings of the council. Regular meetings of the board shall be held monthly. Special meetings may be called by the president or upon request of a majority number of board members.

b. All matters affecting the policies, aims, and means of accomplishing the purposes of the Council not specifically provided for in this constitution or by action of the delegates at a meeting of the Council shall be decided by the executive board.

c. A majority of the members of the executive board shall be required for a quorum.

d. The executive board may delegate such authority as is in conformity with this constitution to any employee of this Council whom it may hire. The executive board shall contract and be responsible for the employment of necessary administration officers and shall have the authority to select such officers on the basis of merit and fitness, without regard to race, color, or creed. The board shall also be responsible for such employments, as well as for the establishment and maintenance of council headquarters. The executive director is authorized with approval of the executive board to employ and direct the activities of such additional personnel as may be required to effectively carry on the work of the Council.

e. Expenditures of funds of the Council shall be authorized or approved by the executive board. The board shall require an independent audit of the books of the Council at least once each fiscal year and report thereon shall be made at the annual meeting of the Council with a copy going to the A.F.S.C and M.E. The executive board shall be responsible for the preparation of the monthly operating statement of the transactions of this Council.

Section 7: All legislative programs of member locals of this Council when affecting the general welfare of public employes shall be cleared through the executive board of the Council.

Section 8: The executive board and the District Council meetings shall be conducted in accordance with the procedures set forth in Roberts Rules of Order.

ARTICLE II

Standing Committees

Section 1: There shall be standing committees called:

a. Welfare Committee
b. Recreation Committee
c. Legislative Committee

The president of the District Council shall with the approval of the majority of the executive board have the authority to make appointments to these committees from the total membership of the affiliated locals of the District Council.

The number of appointments to each of these committees shall be limited by the consideration of the scope of the activities of each committee. The appointments are to be made for one year but appointees may be re-appointed.

ARTICLE III

Representation

Section 1: Locals in good standing with a membership of 100 or less shall be entitled to three delegates and three votes. Locals with membership greater than 100 shall be entitled to three delegates and three votes for the first 100 members and an additional delegate and vote for each additional 50 members or fraction thereof at meetings of the Milwaukee County District Council #48 provided that no local shall be entitled to representation in meetings unless all per capita tax payment and other accounts due the A. F. S. C. and M. E. are paid before the opening of the meeting, and provided further that no local union shall be entitled to representation at the meeting unless such local union has obtained a charter or certificate of affiliation from the A. F. S. C. and M. E. at least fifteen days prior to the council meeting, except by special action of the executive board of the council.

Delegates shall be prorated on per capita paid by the local during the previous six months period using the periods beginning January 1st and ending June 30th and beginning July 1st and ending December 31st as the basis.

Section 2: Delegates shall be members in good standing of their respective local unions.

Section 3: No organization or person seceded or expelled from the A.F.S.C. and M.E. or from its local unions, and no local union suspended by this council shall be allowed representation or recognition at the council meetings.

Section 4: No local union shall be represented at meetings of the council by proxy and names of delegates shall be certified by the proper officers of local unions to the secretary of the council.

Section 5: The Milwaukee County District Council #48 shall not be responsible for council delegates' expenses.

Section 6: Each delegate who is a citizen of voting age must be a registered voter and delegates who are not citizens must furnish prcof that they have taken the proper steps to become citizens.

ARTICLE IV

Reinstatement of Suspended Locals

Section 1: Locals suspended for failure to pay per capita tax or for any other reason may be reinstated with the approval of the executive board and the delegates.

Section 2: Locals applying for reinstatement must meet all the conditions of reinstatement set by the executive board and the delegates to the District Council.

Section 3: Locals objecting to a decision of the executive board may appeal to the Int'l executive board but the decision of the District Council shall prevail until it is reversed by the Int'l executive board.

ARTICLE V

Quorum

A quorum for the transaction of business shall consist of delegates from not less than 51% of the member locals entitled to representation at the Council meeting.

1957

UNION PHILOSOPHY

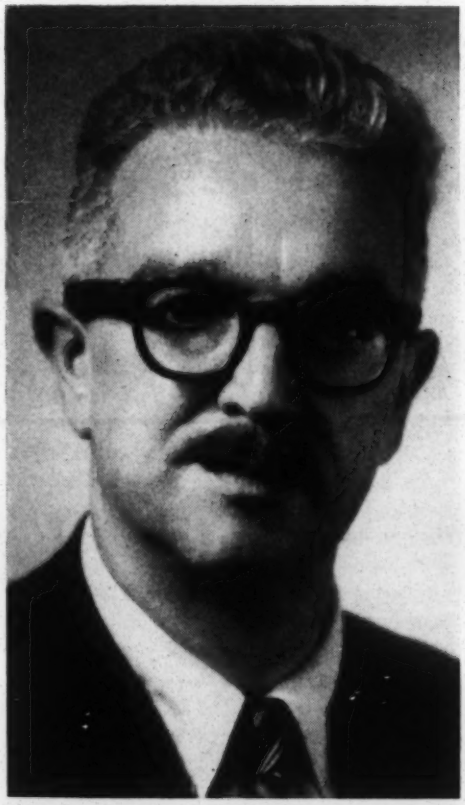
and

THE PROFESSIONAL

By *JACK BARBASH*★

MUCH of the discussion about white collar workers, professional workers and unions has been obscured by folklore and confused thinking. I believe it is necessary, therefore, to get at some fundamentals about the way people, whether professionals or not, behave in our kind of economic society. Unless we fully understand certain principles, the problem of finding a sensible way of dealing with this problem of professionals in unions will continue to evade us.

PRINCIPLE NUMBER 1: An employee-employer relationship inevitably, and I underscore the word *inevitably*—generates problems between the employer and employee. The more employees, the more problems, and the more complex are the problems. When the employees are few, it is possible for the employee to settle or resolve



Mr. Barbash

**Professor of labor education, University of Wisconsin School for Workers, and member of Workers Education Local 189; formerly, research and education director AFL-CIO Industrial Union department.*

these problems on a face-to-face basis with the employer.

PRINCIPLE NUMBER 2: The character of the work makes little difference as to whether problems exist between the employee and the employer. The sweeper, the milling machine operator, the clerk, the engineer, the social worker, the doctor, the lawyer and the teacher—all of these, if they stand in the relationship of employee to any employer, will inevitably experience feelings of irritation, dissatisfaction, ill treatment, or what have you.

The sweeper doesn't always want to be a sweeper. He wants a better job. The milling machine operator knows a fellow who is doing the same work across the street, in another department, who is getting more money than he is. The clerk sees the fellow in the shop getting higher wages. The engineer is assigned to a job which doesn't comport with his notion of what a professional should be doing. The social worker doesn't think she should be getting less than a sweeper just because she is working for a philanthropic agency. The teacher resents the fact that merit increases are made by the whim of a supervisor.

PRINCIPLE NUMBER 3: It doesn't matter, either, who the employer happens to be, for serious problems to exist. The employer-employee relationship has the same thrust whether the employer is an individual, a corporation, a government, a social agency or a union.

Many people used to think that problems develop only when the employer is a private employer. We now know better. The most striking example is, of course, Soviet Russia. The fact that the employer is the state does not in any way mitigate the problems of working for a living. In the case of Soviet Russia, the problem is even worse. The workers have *no* one to turn to.

Even in the case of a democratic government, as in Great Britain, nationalization does not, somehow, transform the employer-employee relationship into a romantic idyll. Work is work for whomever you work. And in all candor, working for a public agency doesn't transform the employer-employee relationship into an idyll, either.

To bring the situation closer to home, when the union becomes an employer, we are not suddenly ushered into an era of brotherly love. The employees of the union believe they have to have a union to protect their interests in dealing with the union as employer.

Why? Why should it be that regardless of what kind of work the employees do, who the employer is, the employer-employee relationship must inevitably create serious problems? I am not sure that I have a complete answer to this.

I think I am certain of what the answer is *not*. It is *not* the inherent cussedness, cupidity, greed of employers. It is *not* something in the psychological makeup, the genes, of a person when he becomes a worker. I think part of the answer lies in the way people perceive their interests. And this brings me to:

PRINCIPLE NUMBER 4: I would state Principle Number 4 like this. There are essential differences of interests between those who are employed and those who employ. The employee wants to earn or save more money. The employer wants to get more money out of the business and keep costs down. It is as simple as that. The employer wants greater freedom in running his business. The employee wants greater freedom as an individual.

Who is right? Why, of course, both are right. There is nothing wrong with either position.

There is a good deal of innocent but sometimes malicious mischief inflicted

by well-meaning people who say that there are no differences in interests between employer and employee. Anybody who has ever worked for a living, or anybody who has hired others to work for a living or who has supervised others knows this is not true.

Am I preaching the Marxist doctrine of eternal class conflict? No. The difference is that the Marxists believe in a doctrine of *eternal* conflict until one side vanquishes the other. They do not believe that these conflicts of interests can be resolved into a viable relationship.

I do not believe in an *eternal* struggle. A society in which one side has vanquished the other is a totalitarian society and it doesn't really matter who vanquishes whom.

On the contrary, I hold that it is possible to find instrumentalities through which these differences in interests can be resolved. The industrial history of the United States is a vivid illustration that it *is* possible to find a mechanism through which employees and employers can live together in relative peace.

There is really nothing subversive or immoral about this conflict of interest. In fact, this is the whole theory of our constitutional form of government. The constitution rests on the notion that the interests of the legislature representing the people, the judiciary and the executive are different and that this difference in interests is good and can be relied upon through a system of checks and balances to advance the common good. All of history is of an attempt to find a way of resolving conflicting interests.

There is no point in attempting to sweep this problem under the carpet through *human relation* and *communications* techniques. There are too many people who obscure the real question by cluttering up the central issue. To be sure, efficient communications can help in focusing attention on the *real* differences of interest. But it is charlatanism of a high order to hold out the promise that there is some kind of a gimmick which will eliminate the differences of interest. How, then, do you deal with these differences in interest in a sensible way? This brings us to:

PRINCIPLE NUMBER 5: If there is a difference of interest between two parties, neither side can be trusted to protect adequately the interests of the other. There is no such thing in group relationships, where differences in interests are involved, as my knowing better what's good for you than you do for yourself. Even if I do know better you won't believe me.

In political affairs, this means that no man and no special interest groups, no matter how high minded and well intentioned, can be trusted to exercise power without restraint and checks and counterbalancing influences on the exercise of authority.

In employer-employee relationships, the application of this principle means that no employer, no matter how high minded and well intentioned, and no matter how much above narrow self-interest he thinks he is, can adequately deal with his employee's interests on his own power.

And it works the other way, too. No group of employees, no matter how idealistic they are, can adequately protect the employer's interests. I then derive:

PRINCIPLE NUMBER 6: The only practical way to resolve differences in interests between employers and employees is through a mechanism which permits either side to say *No* and get away with it. Or as an alternative, if both sides say *No* to each other, which means an impasse has been reached—then there must be some impartial third party who can decide between the parties.

Of course, what I am describing is collective bargaining between a free union and a free employer and the right of the union to strike and the

employer to say *No*. Or as an alternative, the use of some method of impartial arbitration. The collective bargaining process must, of course, be tailored to the special circumstances surrounding each situation.

The institution of collective bargaining carried on by free unions and free management represents one of the greatest social inventions of our time. Collective bargaining is the answer to the forces in our society who say that differences in economic interests can be resolved only by one side vanquishing the other; that is, by a totalitarian system of one color or other.

It is indeed of the gravest import that no totalitarian system tolerates free collective bargaining. By the same token, collective bargaining is an indispensable pillar of modern democracy. Collective bargaining provides a system of due process for the sensible resolution of differences between employers and employees.

I do not want to be understood to say that the answers provided by collective bargaining are always perfect answers, or that the unions which emerge always represent the interests of their constituents in the best possible way. Unions are made up of a cross-section of the American people. I dare say that unions have a share of the social afflictions of the society at large.

But it can be said without effective contradiction that the unions have done a stunning job of improving the working lives of their constituents. They have done it with a high degree of creative adaptation to a rapidly changing economic environment. A strong case can be made that the whole society and the virility of the democratic way of life have benefited from the upsurge of unionism in the United States in the last twenty years or so.

IF *ALL OF THE THINGS* that I have written herein are really *fundamental* principles, what's all this noise about white collar workers and unions and professionals and unions? Why are only about 17% of white collar people in free unions, in contrast to the high degree of union organization in mass production industry?

I suggest that our culture has developed an array of myths and pieces of folklore that attempt to deny the applicability of these principles to the white collar worker. Or, to put it another way, so far, many white collar workers and particularly the professionals have been effectively convinced that they are different:

1) That, as one item of folklore goes, the white collar worker has no problems on the job;

2) That with respect to a white collar worker employed by a government nonprofit agency, the government is not really an employer in any real sense of the word;

3) That if there are differences of interest, the white collar worker can depend on the employer, whoever he is, to do the right thing, and

4) That in any case, unions and collective bargaining are fine for manual workers but they won't work for professionals.

For many professionals this folklore is a rationalization—the *good* reason rather than the *real* reason. The real reason is, to put it plainly, fear.

What, then, is the job of the professional employees' union? First, the rationalizations have to be dealt with and it is the job of the union to get across to the non-union professional in terms of his own experience that these are, indeed, myths. Second, the union must get across the idea that belonging to the union gives him strength and security.

One thing about the professional worker has been very interesting to

me as a student of the labor movement. Despite all the talk about professionals being a separate breed, when professional workers do organize unions, they negotiate agreements which in the main headings do not differ from other kinds of contracts. They concern themselves with the day-to-day grievances of the workers they represent; and professionals strike when they have to.

The element of difference is the shape and pattern which these needs and aspirations take in each individual situation. And, I think, we are beginning to appreciate how to build strong unions of professional workers at the same time that these unions give expression to the diversity of particular goals that particular groups seek.

As a member of the family, in a manner of speaking, I hope you will allow me to write plainly. As I see it, one of the problems of bringing professional workers into unions is the professional himself.

We—and I hope you will let me say *we* because I, too, think of myself as a professional teacher—we tend to overtalk, overthink, and overintellectualize our problems. This holds true when professionals think about unions.

FLORENCE SYTZ, professor of social casework at Tulane university, produced a classic parody on the procedures of a conference of professionals (in this case, social workers). It follows:

"1) Profess not to have the *answer. This lets you out of having any.*

"2) Say that we must not move too rapidly. This avoids the necessity of getting started.

"3) Say that the problem can't be separated from all the other problems. Therefore, it can't be solved until all the other problems have been solved.

"4) For every proposal set up an opposite one and conclude that the 'middle ground' (no motion whatever) represents the wisest course of action.

"5) Discover that there are all kinds of 'dangers' in any specific formulation or conclusion.

"6) Appoint a committee.

"7) Wait until an expert can be consulted.

"8) State in conclusion that you have all clarified your thinking. This obscures the fact that nothing has been done.

"9) Point out that the deepest minds have struggled with the same problem. This implies that it does you credit even to have thought of it.

"10) In closing the meeting thank the problem. It has stimulated discussion, opened new vistas, shown us the way, challenged our inventiveness."

The teaching profession is in a unique position to make a major contribution to the growth and development of unions among professional employees. An understanding of group relationships and social processes is an integral part of professional stock in trade. These insights which must be part of the professional's daily job, can be applied to the union as an organization.

The creative qualities which professionals bring to their jobs can also be transferred to the union situation. The challenge which confronts the professional is this: The dignity, status and scientific competence that go with being a professional cannot be fully realized unless, in the first instance, the professional has a measure of economic and personal security on the job; the kind of economic and personal security that can be achieved only through effective union organization.

THE OUT-AND-OUT professional organization cannot do this kind

of job for several reasons. First, it is temperamentally incapable of fully understanding the logic of working for a living. So, although it dabbles at economic representation, it shies away from the full implications of the task. Secondly, the professional association tends to contain with it inherently disparate elements, so that its effectiveness as an economic representative of any one element is blunted and dulled.

Only a union which is clearly a union can do the job. It must be a union which is custom-built to meet the special needs of its own constituents but there must be no self-indulging illusion that the economic problems of the professional can be dealt with in any way except through an economic organization and this means a union.

REPRINTED FROM

The AMERICAN TEACHER magazine

December, 1957

MARIE L. CAYLOR, EDITOR

FOR COPIES WRITE

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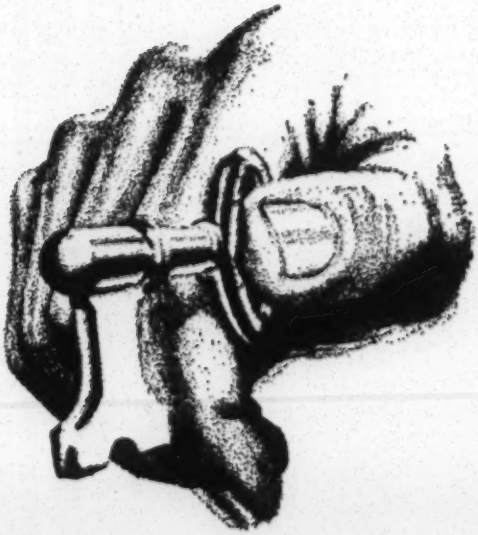
THE STEWARD



KEY to a Strong Union

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The Steward . . .
Key to a Strong Union

American Federation of
State, County and Municipal Employees, AFL-CIO
1958

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INTRODUCTION

This manual describes the duties and responsibilities of the union steward and provides suggestions on methods whereby his work may be more effective.

Our International officers and the staff at headquarters in Washington, D. C., combined their experience and their knowledge of the trade union movement in the writing of this manual. Moreover, the experience of many other unions of AFL-CIO was reviewed, especially the work on stewardship of the former Congress of Industrial Organizations.

Our union has undertaken a vast program of evaluation over the past few years to discover from the members themselves what kind of union they want to build and how they want to go about doing it. This evaluation confirms what members of unions in our largest industries have learned—that their stewards were the key to building their strong and powerful unions.

This manual attempts, in addition, to define the principles that derive from the democratic philosophy of American trade unionism. Combined with the experience of veteran AFSCME members, these principles can be applied by our stewards, local officers and representatives in an almost infinite variety of circumstances in the public services.

Finally, this manual was designed as a guide for discussion of stewardship in meetings of stewards and local unions. We hope it will help to solve the problems our members and their officers face in the daily business of making the public services not only a better place to work but a more efficient public function.

Sincerely and fraternally

JOHN P. CALDWELL
International Representative

ACKNOWLEDGEMENT

Grateful acknowledgement is hereby made to Philadelphia District Council 33, whose officers, stewards and members made possible the photographic illustrations that are contained in this manual. Gratitude also is extended to the city officials of Philadelphia, who gave generously of their time so that the pictures in which they appear could be made.

AFSCME IN ACTION

The American Federation of State, County and Municipal Employees was granted a charter in 1936 by the American Federation of Labor. This new union of state and local government employees emerged out of the great depression of 1932 with the central goal of protecting hard-won civil service rights. One of the leaders of this early group of organizers was Arnold S. Zander, then a civil service examiner in Wisconsin. Brother Zander was elected AFSCME's first president. He has been re-elected to this important post ever since.

Despite the extreme complexity of and variation in state and local government labor relations practices and despite the lack of a Wagner Act to protect the right to existence of this new union, AFSCME has had marked steady and substantial growth. In 1956 following merger of the American Federation of Labor and the Congress of Industrial Organizations, AFSCME and the CIO Government and Civic Employees Organizing Committee merged. Through this merger and subsequent growth of the new organization, membership has grown to more than 200,000.

The governing philosophy of AFSCME is that it is an organization of its members, by its members and for its members. The basic effort of the leaders of AFSCME through the years has been to communicate with the membership and to ask decisions from the membership in connection with the union's policies. AFSCME has won the respect not only of fellow union members in other organizations of labor but also of countless public administrators. AFSCME is the union for public employees.

Structure of AFSCME

The union is directed between biennial conventions by the International Executive Board of 13 members including the International president and the International secretary-treasurer. The Board holds at least two general meetings each year and gives reasonable notice of these meetings to councils and locals which may have problems to bring before it. The Executive Board also may be called into special session by the International president or by a majority of the Board members.

State-wide councils of state employee local unions have been established in many states to combine resources for the effort to win benefits and collective bargaining rights for state employees. Councils are formed when local unions in the particular public services vote to form them. The locals elect delegates to a convention for the purpose of forming, for example, a council of state employee locals. The delegates write and adopt a constitution, which, when approved by the International president, is official. The delegates adopt a financial structure based on a per capita tax and delegate authority to the executive board they elect. Similarly, locals in county and municipal subdivisions have been formed into councils in order to strengthen their bargaining position before state legislators, county boards and city councils and to assist locals in negotiations and organization. Executive boards employ representatives to carry on the day-to-day work of organization, representation and legislative work.

The United States has been divided into regions. Each region is under the general supervision of a regional director, appointed by the president with the approval of the International Executive Board. (See map page 7). Regional directors are under the supervision of the director of organization by authority of the International president.

Union Gains

Over the years AFSCME has vigorously promoted campaigns for the improvement of wages, hours and working conditions of state and local government employees. Among

the significant improvements, by which many thousands of public employees achieved a better life, are:

1. Union recognition.
2. Improved wages and salaries.
3. Liberalized and more extensive retirement programs.
4. Old Age, Survivors and Disability Insurance coverage for public employees.
5. Signed working agreements describing wages, hours and working conditions.
6. Grievance procedure whereby working conditions are constantly improved.
7. Extended civil service legislation and merit systems.
8. Shortened work week and time and one-half for overtime in some jurisdictions.
9. Hospital and surgical insurance coverage with all or part of the premium paid by the employer.
10. Longevity pay.
11. Unemployment compensation to increased numbers of public employees.
12. More liberal sick leave and paid vacations.

The Coming Campaigns

Although AFSCME has a long way to travel before it fully organizes the state, county and city governments employees in the 50 states, more than 3,000 counties and thousands of cities in the U.S.A., the union is firmly established. Its 200,000 members joined because they knew public employees must have an effective organization to represent them. Organization is the primary goal of the union if results are to be achieved.

For almost 20 years industrial workers have been largely organized. They have made great strides forward in wages, fringe benefits and working conditions. Public employees have lagged behind until the differential or "gap" between the two groups has become alarming. Economic studies by the AFSCME Department of Research show that the wage

gap between industrial workers and public employees ranges from $57 a month in one state to $118 a month in another. This gap is widening as industrial and construction workers' unions press successfully for increases in wages.

There is no justice when a city-employed grader operator works for $1.50 an hour less than a grader operator in private construction. Hundreds of similar examples might be listed in which, job for job, the public employee works far below his counterpart in private industry. The old "justification" for this unequal treatment was that a public employee works all the year round while workers in private industry suffered frequent lay-off. Studies of the construction industry indicate that annual take-home pay of construction workers is more than $1000 a year over that of the average highway or street department employee.

For AFSCME this widening gap constitutes a great challenge not only to win pay increases equal to those received by all other workers but also to overcome the differential. Your officers and the International Executive Board are proposing policies designed to win the goal of at least equal pay for public employees as compared with industrial workers.

Right to Bargain

The central aim of these policies is to win from state legislatures the right for AFSCME to become the legally elected exclusive bargaining agent for state, county and municipal employees. The National Labor Relations Act gives industrial workers the right to have their union and compels employers to bargain with the union in good faith with the objective of a signed contract covering wages, hours and working conditions. AFSCME maintains that similar rights should be granted to public employees by the state legislatures. The drive to convince the legislators of the justice of this cause will be one of the most important activities of AFSCME for some time to come.

The local union steward and committee member are the basic link in the two-way communication of ideas between

AFSCME leadership and the members on how to win these campaigns. The steward is the leader of the union in the department in which he works. His role is to defend the workers' rights on the job. He must keep the members informed on all phases of the union's activities. He must help build the union by recruiting more members to gain bargaining strength. This manual is designed to help the steward to do these many things.

Rights and Duties of Members

AFSCME can be only as powerful and effective as its members want it to be. Participation by an interested and informed membership is the only effective guarantee that the union will achieve success in its undertakings.

A union is defined as a "continuing association of wage earners for the purpose of maintaining and improving wages, hours and conditions of work." It is an institution of human beings who have associated themselves together permanently and who are devoted to promoting the common good.

Each member, when he joins the union, assumes a responsibility of helping the organization to win its goals. Each member has a responsibility with others to determine what the goals will be and how the union proposes to win them.

The decision-making process in AFSCME starts with the local union. Delegates from the locals meet in the various councils and there make decisions affecting many thousands of workers in the wider area of a state or large metropolitan city. Every two years delegates from local unions attend the International Convention, again making decisions on behalf of their members and on behalf of the nation-wide interests of public employees.

The method of governing the union is the method of democracy whereby direct representatives of the people make final decisions. Elected and appointed officials then carry out those decisions. The stewards and committee members perform the vital function of bringing the thoughts, feelings and desires of the members to the attention of their leaders.

The AFSCME Steward

Webster defines "steward" as a guardian, custodian, or administrator. In our union he is all of these.

The steward is the key to a stronger union because he carries the ball for the union where it counts most—on the job, among the members.

It's easy to see why. The steward is on the spot every day to see that fair labor standards are maintained. The union officers can't do this job. The staff at the union office can't do it. You are there and they have to depend on you.

A good steward means a good union to the members he represents. Most workers judge the union by their stewards. When they think of the union, they think of the steward and the kind of job he does.

When a steward is fair and helpful and settles their grievances promptly, the members feel that the union is working for them. If he is enthusiastic about union ideas and programs, the members will take an interest. When the steward does a good job of enforcing standards, they respect his judgment on other union matters.

The powerful enforcement of good working conditions in America's factories stems from the careful selection, training and support of the steward by the members. The solicitous care with which union stewards and grievance committeemen investigate and the militancy with which they fight out grievances of the workers has won the undying loyalty of the rank and file to their union.

You can make the union alive and powerful in your department. The steward holds the key to a stronger local union.

The Steward's Job

There are three parts to a steward's job. First, you must organize the unorganized by signing up prospective members. Second, you've got to protect the workers' rights in the department. This means settling grievances and watching for violations of labor laws, working conditions or the agreement. Third, it's up to you to strengthen the union and build support for its program among the workers you represent. You are the union's leader in the department. You must tell the workers about union activities. You must build loyalty to union goals.

These three jobs aren't really separate. When you settle grievances justly, you strengthen the union. And if you and the union don't have support from the workers to begin with, it will be hard to get fair grievance settlements from supervisors—or a better deal from management.

How to Build the Union

Did you ever think of yourself as one of those leaders of public opinion that the newspapers are always talking about? Well, you are. The members expect you to have more information about the union than they do, and they respect your judgment. They will listen to your opinion on union affairs and departmental problems. They may not always agree, but much of what you say will sink in.

A steward has the opportunity to build support for the union because he can talk to the members and prospective members every day—at lunch, during coffee breaks or on the job. The union counts on you to carry the word about union activities to the members and to encourage them to take part.

Of course, you can't tell the members anything you don't know yourself. A steward should attend union meetings regularly. Make it a point to read *The Public Employee* magazine published by our International union. Our International and the AFL-CIO publish pamphlets that will help you. When you know what's going on in the union, spread the word around and educate your members.

Build a Team in Your Department

On department problems a steward has to have the backing of the workers he represents. When you are fighting a tough grievance, the whole-hearted support of all the workers will often convince management to see it your way. If a member is afraid to fight his grievance through, moral sup-

Steward points out an important article in *The Public Employee* to a member. It is the duty of stewards to keep the members briefed on union affairs at all times.

port from his fellow workers will give him courage. Let your members know what's going on in the department and get them to stick together.

Remember, you are a democratic leader, not a dictator. You'll soon find yourself without any support if you try to tell the members what to do. Tell them what you think and always explain why. You've got to have a mind of your own, but you've got to be ready to change it too.

A good way to keep your members united is to hold department meetings where you let them know what's cooking. Encourage them to express their opinions. Whenever a situation in the department affects a number of members, be sure to get them together and consult them. Otherwise you may find yourself out on a limb without any support.

Organize the Workers

Every time a new man comes to work in the department you are seeing a potential union member. Maybe he'll be an enthusiastic member; maybe he'll be a griper. You can get him off to a good start if you show a friendly interest as soon as he comes into the department. Introduce yourself and offer to help with any problems he has. Tell him about the union. He'll appreciate your welcome. If possible, have a dues deduction card and membership application card filled out and all ready for him to sign when you first approach him. He may appreciate efficiency.

Unless your union has a union shop contract, it's up to the steward to get a new worker to join the union. One of the most convincing arguments you can use is to explain the benefits the union has brought to the workers since your department was organized—wages, vacations, pensions, seniority protection. Tell him about the union's goals for the future. Don't get tough. Convince him he'll be better off by joining the union, then sign him up.

Where there's a union shop clause, the worker joins the union automatically after a certain number of days. Just joining doesn't necessarily make him a loyal member, however. If you want him to back up the union, you'd better sell him on the union too.

There has been so much newspaper propaganda against the union shop that some workers don't understand the reasons for it. The union's thinking on this question is simple. Everybody benefits from the union. They all get the raises negotiated by the union; all have rights to decent working conditions and the right to use the grievance procedure. Therefore, it's only fair for everyone to belong to the union and help pay for it.

All of us have heard the non-member say, "Why should I join the union and pay dues when I will get it (the benefits) anyhow?" By talking like this, a non-member condemns himself and the members to a weaker union and thus a sub-

Steward hands a new member a piece of literature explaining the function of the union as the member pins on union button. Stewards must make sure new members understand how union functions.

standard wage. A 50 percent union can win only 50 percent results. Here are a few other things he denies himself by refusing to join AFSCME:

1. Job protection through the grievance machinery.
2. The good feeling that comes from belonging to the group.
3. Association with millions of other workers in AFL-CIO in the fight for improved social legislation.
4. Above all, he denies himself a voice in concert with his fellow workers in determining what the working conditions and wages ought to be on the job.

Get Your Members to Meetings

Of course, members ought to support the union by attending union meetings and finding out the union's problems. The membership meeting is the place where the member has his say on union business. It's easier to sit at home and watch TV though, so the steward has to encourage his members to go to meetings.

You can remind them beforehand and tell them what's coming up. If they don't come, try talking about the meeting during lunch the next day so that they'll know they missed something. You may never get all the members in your department to all the meetings, but a steward's job is easier when there is a group of active members who know the score and can help him out. And, of course, you should attend every meeting yourself!

Steward and Business Agent John Milcarek post a meeting notice on the bulletin board. Making sure that members get to meetings is an important job for the steward.

Help Your Members

You can help your members—and strengthen the union at the same time—if you let them know what services and opportunities the union offers them off the job.

Perhaps your local has a credit union. Or a blood bank. Do you run picnics? Other recreational activities? Christmas parties for the kids? Card parties? Discount privileges? Make sure your members—and non-members, too—know about these activities.

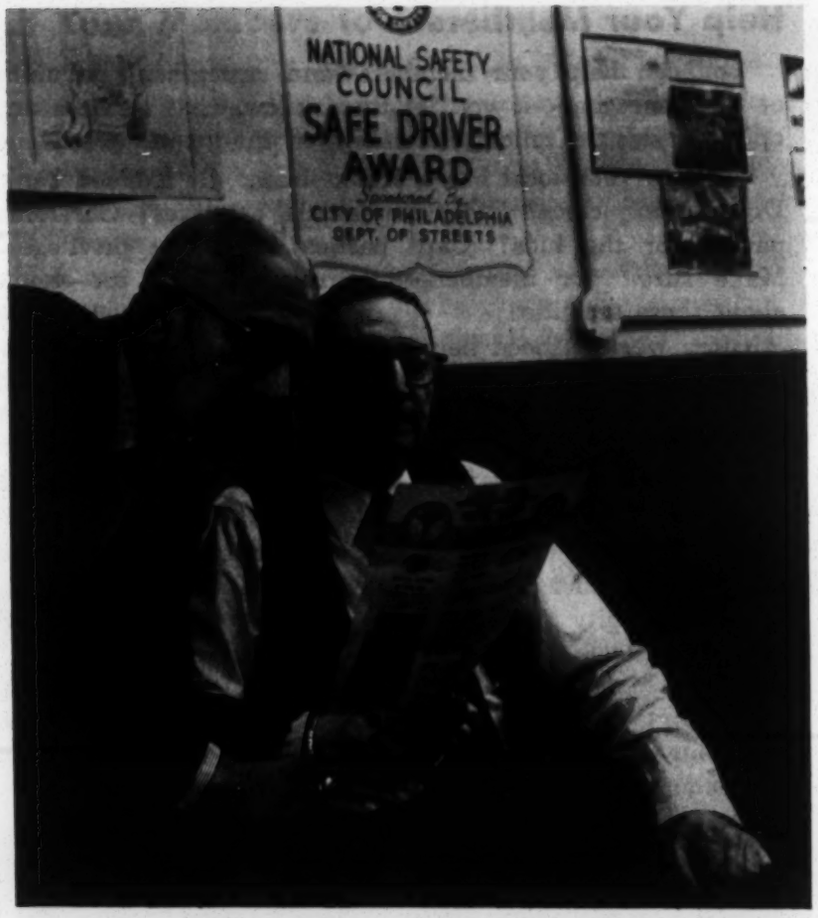
Often workers need help on problems that come up outside of their job life. A member's claim for unemployment compensation may have been denied. Perhaps a woman can't find a day nursery that has a place for her child. These off-the-job problems are just as important to the worker as a grievance. Often they turn to the steward for help.

The AFL-CIO Community Services program trains union members to understand laws affecting workers and to know what community agencies do to help people with home and family problems. These people, called "union counsellors," know where to send members for advice. If you have union counsellors on your job, use them. Or better still, become one yourself. For information on how to become a union counsellor write to Leo Perlis, AFL-CIO Community Services Dept., 9 E. 40th St., New York 16, N. Y.

Support COPE

AFSCME members throughout the country have a right and a duty to support COPE, the AFL-CIO's Committee on Political Education. COPE is the political arm of the 15,000,000 workers affiliated with AFL-CIO through their International unions. COPE promotes election of liberal candidates to public office—federal, state and local. COPE advances legislation in the national Congress and in the state legislatures protecting the legal, economic and social gains of workers and fights politically forces that seek to restrict the rights of labor—rights that are both economic and political.

AFSCME demands for public employees and for this



Steward and member look over COPE literature as the steward goes about collecting member's dollar for the AFL-CIO's Committee on Political Education.

International union the same rights and privileges to political action that are enjoyed by union members in private industry. However, many AFSCME members vastly exaggerate various restrictions on political activity contained in civil service rules, ordinances and directives.

Leaders of COPE have agreed with President Zander to assign all money collected from AFSCME members for COPE

to a special education activities fund. No money collected in AFSCME locals will be used to help finance candidates for political office. No members of AFSCME may be denied the right to contribute to COPE in any state, county, city or other subdivision in the U.S.A.

It matters materially to all unions, in fact to all working people, that liberal, labor-minded legislators, county supervisors, aldermen and congressmen be elected; it is a matter of vital concern to public employees. It is the politicians and appointed public officials in all governing bodies with whom final decision rests concerning wages, hours and conditions of public employees.

A public employee who says, "I cannot be active in politics because I am a public employee," slams in his own face the only door available to him through which he can obtain improvements, so much needed, in wages, hours and conditions.

Because of confusion on the issue of political action by public employees, AFSCME has not provided its share of funds to COPE, yet its members have greater need of favorable legislators than do most workers, especially those in private industry.

The officers and the executive board of AFSCME are extremely anxious for our members to find ways in which to promote the general political aims and education efforts of COPE.

For example: State, county and city election campaigns may be under way simultaneously. There are candidates for the state legislature, the county board and the city council. If city employees feel restrained in connection with the city council election, why can they not be active in the state and county elections? If county employees feel similarly restrained concerning the county board election, why can not they be active in the state and city elections? Similarly, state employees might help the campaign in the county and city of their residence.

The COPE committee of the local union and the steward in departments can work together to devise ways whereby AFSCME members may make a contribution to the work of

COPE, especially in its educational effort, and still abide by rules that are the past practice in any particular subdivision of government.

Every steward should work with the COPE committee in his local in an all-out effort to get every member and his family registered to vote at the time the voting registration books are open. The high percentage of union members and their families who are not registered to vote is alarming.

COPE offers an annual citation to all locals which have achieved full registration of their members and checked them against the public records. These are in the form of plaques which can be framed and hung on the walls of meeting rooms. Rules for earning the citations can be obtained from COPE, 815 16th St., N. W., Washington 6, D. C.

How to Settle Grievances

The steward's most important job is to settle grievances. If you are a new steward this may look like a tough job to you. Actually it doesn't take the mind of a legal wizard—a little common sense and the courage to stand up for what's right will do the trick.

No steward ever knew all the answers when he first took the job. An effective steward has learned the score by educating himself. Union meetings, union literature and day-to-day experience teach a steward how to do the job. Steward training programs can be established to assist stewards in understanding their jobs.

There are going to be grievances you don't know how to tackle. When this happens, don't be ashamed to ask for advice. Get the facts, then talk it over with the local officers. When you have collectively decided how to handle the grievance, go back and take it up with the supervisor yourself. If you don't settle your own grievances, you'll lose the respect of the members and the supervisors.

Know Your People and Your Department

Working rules, whether bargained with management and written into a contract or whether in civil service regulations or an ordinance, are definitions of what management can and cannot do. An employee grievance is a complaint that management has violated one or more of these rules.

The steward who does not know these rules cannot advise a member whether he has a grievance. He is like a navigator without a compass. Every sentence in a written working agreement was put in there either by management or the union in order to define the rights and duties of employees. You should familiarize yourself in detail with these sentences, but it is not necessary to memorize the working rules. However, you must know where to look for the provisions that apply to any particular grievance.

When you have studied the written rules (from your contract, civil service rules, ordinances, etc.), talk with others

A meeting of stewards at Council 33 headquarters in Philadelphia gets a briefing on union policy from Business Agent John Miller. Such meetings keep stewards up to date on union business.

about it. Interpretation of the intent of a clause in the rules is often difficult. Successful conclusion of a grievance often depends upon the interpretation you place on the rule or clause and upon your ability to persuade the supervisor that yours is the right interpretation.

Many local unions conduct regular meetings of the stewards, generally with a chief steward as chairman. The purpose of these meetings may be to develop policy in connection with interpretation of the working rules or to compare notes on grievances from one department to another. You may interpret a rule one way in connection with a member's grievance while others may feel differently about it. The steward body could come to agreement on such a difference of opinion.

There is no substitute for a thorough working knowledge of the working rules although memorizing them is not necessary. What is important is that you know where to find out what you need to know. The local union's files should be kept up to date on past grievances and made available at all times.

Look Over Your Department

You should know the jobs in the department, also what rates of pay go with them. If there is any doubt concerning a job assignment of any individual, find out what is was and the salary attached to it. Be sure you have a copy of the employment list. The date of employment for each employee will establish his seniority. From such a list you can go into action quickly on a grievance.

You can pick up some of this information just by keeping your eyes open as you walk around the department. The employer should provide you with copies of salary and seniority lists. The Research Department at our International headquarters has useful information on rates, earnings, and job classifications. It can also supply you with information on how grievance procedures are handled by other locals.

Know Your People

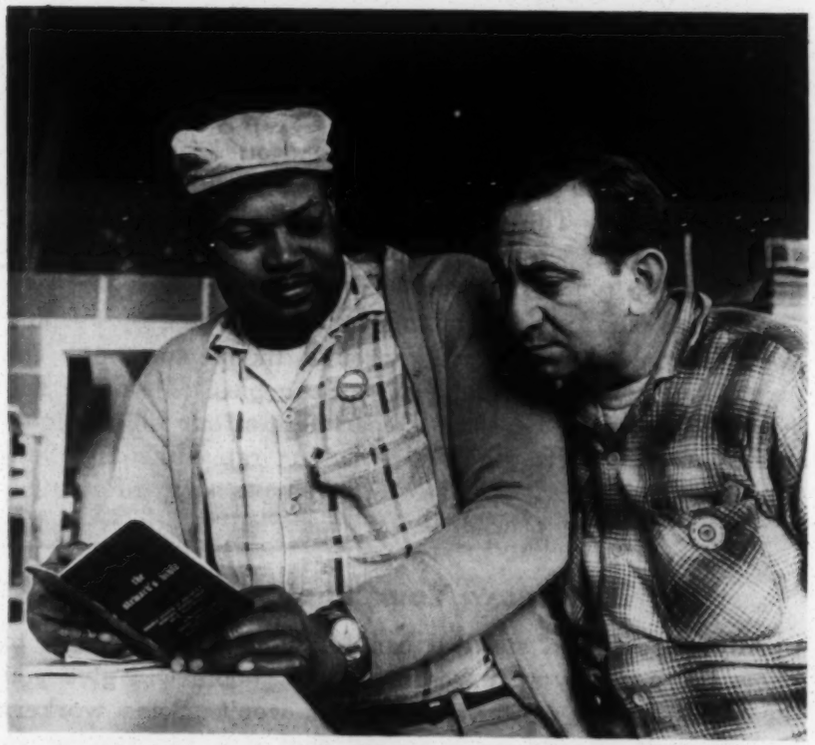
Any experienced steward can tell you that you have to know the people you represent. Some people will give you the full story on a grievance; others won't. Some workers have a good, steady work record that you can use as an argument when talking to supervisors; others don't. Some workers have home problems that affect their work. If you get to know the people you represent, you can take these differences into account.

What is a Grievance?

Many workers have so much faith in their steward that they bring him all their problems. Every request for help should be handled sympathetically. But you must learn to tell the difference between a legitimate grievance that you can take up with the supervisor and a complaint for which management is not responsible. You can usually decide whether a complaint is a genuine grievance by asking yourself two questions:

1. *Did management violate the agreed working rules?*

   If the answer is "yes," there is a grievance for certain.



Steward makes sure that member who has come to him with a grievance really has one by checking the working rules. Taking up a "bum beef" does the member no good and hurts the union.

2. *Has management treated the member unfairly?*

If the answer to this question is "yes," it is probable that there is a grievance. Sometimes this type of grievance is hard to win because of a technicality. In any event, when a member's complaint is lost on technical grounds (the wording of the rules), make a note of it so that rules may be changed during the next bargaining session with management.

You will usually find that a complaint is a real grievance if you will study all of the rules (contract, civil service, etc.). There may be a clause dealing with this particular problem. Beware of making a snap judgment; many a just grievance has been lost because it was not even identified.

Most often a complaint will lodge in the area where neither "yes" nor a "no" can be applied. Suppose the working rules specify that employees must be prepared to work a "reasonable" amount of overtime in an "emergency." Settlement of the grievance hinges around definition of "reasonable" and "emergency." Everything depends, in such a case, on the skill with which the grievance facts are assembled and presented and upon any record in the local union office bearing on past decisions in which "reasonable" and "emergency" have been defined. After all, if the employees feel they have been treated unfairly, their word on this is as good as management's.

Whenever there's a doubt in your mind, take the complaint up with the supervisor. Sometimes you won't know whether it's a grievance until you have obtained further facts from him. A steward is expected to speak for the members and fight for their point of view. You aren't going to win every grievance, but it's up to you to try to get them a square deal.

Don't Take up Phony Grievances

If you are sure the complaint is not a grievance, don't take it up.

A grievance is a complaint against management. So it's not a grievance if two members have a purely personal disagreement. If Jane and Mary can't agree whether the window should be open or shut—that is not a grievance. Be sure that management is responsible for the complaint before you take up any grievance.

A member may think he has a grievance because he does not understand the rules. Perhaps he says he is entitled to vacation pay, for example, when careful reading of the rules shows he has not worked long enough.

Personal disagreements and mistakes in reading or interpreting the rules are not grievances. Don't go to the supervisor with them. You may build up false hope in the employee involved, and the supervisor may decide you do not know what you are doing.

How to Prepare Your Case

When a member comes to you with a complaint, the first thing to do is to get all the facts. Then you can decide whether it's a grievance or not.

Steward takes down all of the facts from the aggrieved members in the course of writing up his grievance report in duplicate. Written reports provide the union with a record of grievances.

The first place to look for facts is from the member himself. Listen to his story patiently—with both ears. Then pin him down with specific questions. Don't be satisfied with glib statements like, "The supervisor picks on me," or "They're giving us too much work." Ask, how often? What dates? How many minutes a day? Have you got proof?

Take notes as you go along. Don't go to management without having all the facts clearly before you.

Sometimes a worker takes it for granted that you understand his job and forgets to give you vital facts. Sometimes he skips the part of the story that might weaken his case. If you are going to win his case, you've got to ask the probing questions that will give you all the facts he knows.

Get ALL The Facts

All the pleading in the world will not convince supervisors like a few hard, cold facts. Once you have heard what the member has to say you've got some of the facts. But you've got to check further.

Perhaps you should compare the job with the classification. Sometimes you'll want to talk to other members—or other shifts—to find out if they are having the same trouble. If the grievance involves seniority, check the seniority list. On a rate grievance you may have to get rates in other departments.

A grievance is like a detective story—you must sift all the evidence before you know who did what.

Study the working rules carefully. Read over the entire section that deals with this type of grievance. There may be a little "if," "and," or "but" in there that will affect your case.

Don't Try to be a Hero

Don't promise the member the moon. If it looks like a legitimate grievance tell him you'll do your best to settle it. But promises like "We're sure to win" may build him up to a big letdown.

On the other hand, you may decide it's not a grievance

when you've looked into all the facts. You can't take it up, and you must tell the member so.

This is a time for tact and diplomacy, because the member is bound to be disappointed. Be sure to explain just why his complaint is not a grievance. Show him the rule itself. If you give him the brush-off, he will lose faith in the union.

When you can't convince the member that it's not a grievance, tell him he can talk to the union officers about it. You may be wrong, after all, and it is his democratic right to have a further hearing.

Take the Member With You

A good many unions advise their stewards that whenever possible you should take the member with you to the supervisor. When the aggrieved member is there he knows that you put up a good fight for him, and you build his confidence in the union. He cannot then accuse you of selling him out.

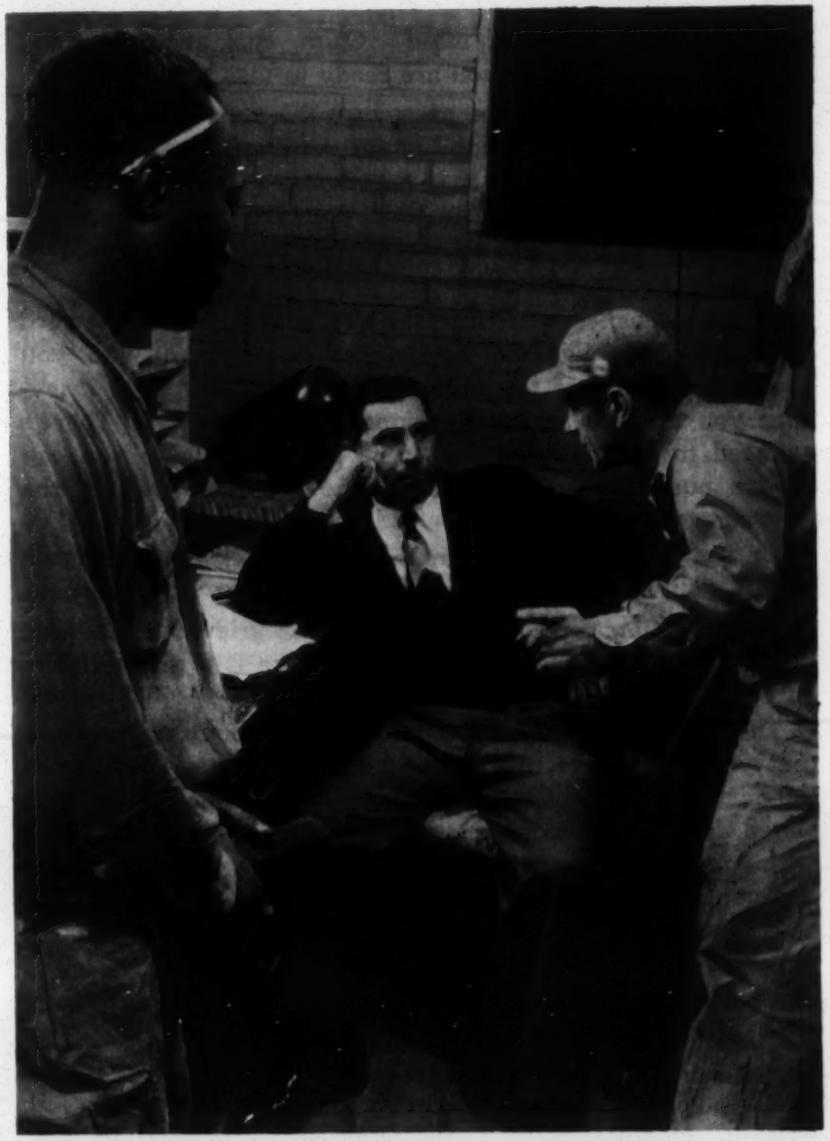
A member may damage his case before a supervisor if you don't prepare him beforehand. Tell him just how you are going to present the case and how the rule applies to it. This gives him assurance that you know what you are doing. If he is angry, point out that nasty cracks at supervisors will hurt his chances of winning.

Stop and Think

Before you see the supervisor, stop and think. Ask yourself:

1. Have I obtained all the facts from the employee?
2. Do I have all the other information I need?
3. Have I checked the working rules?
4. Have I explained the case to the member?

Even if the rules do not require you to fill out a written grievance at this step it's a good idea to write down the main facts of the grievance. Then jot down the questions you want to ask the supervisor and the ideas you want to get across to him. Writing out the grievance will make it clearer in your own mind. Your notes will keep you from forgetting important points when you see the supervisor.



Steward and aggrieved member take up the grievance with the supervisor as the first step of the grievance procedure. In addition to oral argument, steward presents written grievance report.

How to Convince the Supervisor

What's your frame of mind? Calm, cool and collected? Sure of the facts? Then you are ready to visit the supervisor.

Under a good grievance procedure the supervisor and the steward share the responsibility for settling grievances. The two of you are going to have to discuss and settle a lot of knotty problems during the time you are the steward. It helps if you can establish a friendly, but businesslike relationship right at the beginning.

In the grievance procedure the supervisor and the steward are equals. He has the backing of management and you have the backing of the union. When you take up a grievance you are not asking the supervisor for favors. There's no need to bow and scrape. If he is unreasonable you can always push the grievance on up to the next step in the grievance procedure.

On the other hand, you aren't going to get much cooperation if you approach supervisors with a big chip on your shoulder. Often the supervisor can settle grievances in your favor if he feels like it. He won't feel like it if you tell him off every time you go near him.

The supervisor may have information about a grievance that you don't have, no matter how carefully you collected the facts. So ask him calmly just why this grievance happened. Then listen to his answer. Even when you don't agree with his point of view it's good psychology to let him talk and get it off his chest.

When you present your case, give him the facts and tell him how the union wants this grievance settled. If he gives you an argument, don't retreat—stick to your guns and show him that you are right.

IF . . . He Tries to Sidetrack You

Supervisors may try to sidetrack you by leading the discussion off onto some other issue. For example, if you have a grievance involving a member who has been absent several times, the supervisor might finagle you into a discussion of

the problems of absenteeism in the department. Or when you are asking a wage raise for a woman member he may bring up the question whether women should work outside the home.

It's best to let him talk himself out. But don't be misled. This is not the point. When he has finished bring him back to the facts of the individual grievance.

IF . . . He Wants to Trade

If the supervisor wants to trade grievances, you take one, he'll take one—tell him no. Trading grievances is not fair to the members involved. Settle each grievance on the justice of the case.

IF . . . He Makes You Mad

When the supervisor makes you mad, control your temper. Few people can think straight when they are angry.

Don't make silly threats. In most cases you are bluffing when you tell a supervisor the members will walk out. Most rules do not permit strikes over grievances, and in any case the grievance has to go through further steps. Grievances must be settled by negotiation and arbitration.

IF . . . The Supervisor Stalls

Ask the supervisor to give you an answer on a grievance right away. This may be impossible. The supervisor may say that he wants to think it over. Many times he has to check with higher management. Delay may be justified, or it may be just a stall.

If the supervisor won't make a decision right away, you should try to set a definite time for the answer. Tell him you'll be in tomorrow, or next Wednesday, or some definite date, to get his decision. But make it soon. The aggrieved member is waiting for an answer.

IF . . . You Win Your Point

Once the supervisor agrees with you on a grievance, don't

After he has made his point, steward loses no time in leaving the supervisor and taking the aggrieved member with him. There's no use belaboring a case after point has been made.

continue to hash it over. It's important to know when to stop talking.

And when you learn that you have won the grievance be sure to tell the member about it. He is waiting anxiously to know how it came out, so go tell him immediately.

IF . . . You Can't Settle

When the supervisor doesn't settle a grievance to your

satisfaction, take the case to the next step in the grievance procedure right away. Tell the supervisor you are going to do this.

After the grievance has been taken to the second step, there may be quite a delay before the grievance is finally settled. The member may come to the conclusion that the union has forgotten his case. It's up to the steward to check with the chief steward or local officer from time to time and keep the member informed about union action at higher steps in the grievance procedure.

How to Write Up Grievances

Write the facts of the grievance. This provides the union with a written record of the facts of the grievance and its settlement. Most procedures require the steward to write out a grievance form before he sees the supervisor; sometimes the grievance is written in cases where the supervisor won't settle and you are sending the grievance to the next step. It is far better to write the facts at once.

When you write out a grievance you are putting the facts down while they are still fresh in your mind. Your memory isn't perfect; what's written down doesn't change. The facts on the grievance form are used by other union representatives at higher steps of the grievance procedure. That is why it is important for grievances to be written clearly and accurately. You may want to refer back to a past grievance settlement that you can't quite remember.

What to Put on the Grievance Form

Take a look at the sample grievance form on the next page. (This form is available in quantity from the International union office.)

Be sure and fill out all parts of the grievance form in detail after you have checked the facts. You should insist that the member back up his complaint by signing the grievance form.

You must tell what the grievance is about and what you

want management to do. This requires careful thought. You must put down the essential facts without arguing the entire case. To give you an idea how to write up this part of the grievance form, look over the following examples:

AMERICAN FEDERATION OF STATE, COUNTY & MUNICIPAL EMPLOYEES

AFL-CIO

Grievance Blank

Local Name and Number _____ Date _____

Employee's Name _____

Date of Membership in Union _____

Dues paid up to date _____

Present working title _____

Statement of grievance by member: _____

_____

_____

_____

_____

_____

_____

_____

_____

Signature of Member _____

Action taken _____

_____

Result _____

_____

_____

F-29A

EXAMPLE:

Nature of Grievance: Seniority violation of civil service.

Mary Barton, with seniority 3-1-57 was laid off July 1, 1957, in accordance with civil service rules. Alice Jones, with seniority 4-15-57, retained her position although least senior in this classification. Both are clerk-typists I and receive the same pay ($1.35).

Grievance based on Civil Service Rule XII, Article 3.

Adjustment Desired: The union requests that Mary Barton be returned to work with pay retroactive to July 1.

EXAMPLE:

Nature of Grievance: Bidding on preferred shift.

James Williams, with seniority 4-1-50, is entitled to the job of operator on the day shift. He bid for transfer from the swing shift 6-1-57 when a vacancy occurred. Joseph Bishop, with seniority 7-1-52, an operator on the graveyard shift, was given the day shift position 6-15-57.

Grievance based on Contract Article VI, Section 1, Paragraphs 1 and 2.

Adjustment Desired: James Williams should be given a day shift position immediately in his classification as operator.

These examples are brief. They give the facts. They ask definite settlement, with back pay when necessary. *Don't fill up the grievance form with your arguments. Save them for the meeting with the supervisor.*

A completed grievance form should have the following information on it:

1. Who was the worker involved? Job? Shift?
2. What is the grievance about? Transfer? Discrimination? Discharge?
3. When did it happen? Put down the day the grievance began, not just the day you write it out.
4. What clause—or clauses—of the contract or working rules were violated?
5. What does the union want done about it? Be definite. Don't forget to ask for back pay if you want it.

If you use this list to check your own grievances—and if you are careful to be very accurate—you'll soon get the hang of writing grievances correctly.

Higher Steps in the Grievance Procedure

Quick settlement of a grievance at the first step, between the supervisor and the steward, is most desirable. Sometimes, however, the supervisor and steward cannot agree. In such a case, the grievance is then taken to the next step. The procedure will vary from state to state, from city to city and from county to county, but they will be outlined in your own working rules.

Whatever the number of steps in your grievance procedure, the principle will be the same. At each step higher officials of management and the union meet to bring their experience and authority in an effort to settle the dispute. A desirable procedure is as follows:

1. Employee and steward go to the supervisor.
2. Union committee takes up the grievance with personnel director or department head.
3. Union committee and union representative meet with the department director.
4. Union committee and union representative meet with the top management (Civil Service Commission, county board, city board of aldermen).
5. Arbitration.

Steward (left) and Business Agent Ronald Smith (right) take up a grievance with the top officials of Philadelphia General Hospital after it has failed to be resolved at the supervisory level.

Most agreements on grievance procedure set a time table to avoid delay. Occasionally, management will seek to "wear out" a grievance by stalling tactics. A time table prevents this. In the time table, provisions are written permitting the union to take the grievance up a step if a reply is not given within a certain number of days. Similarly, the union must notify management within a certain time if it intends to take a grievance to the next step. You should be familiar with the time table.

What is Arbitration?

While many methods are employed to provide final settlement of grievances, they all boil down to the same principle—arbitration. An outside expert, someone familiar with grievance disputes but who is connected neither with management

nor the union, is called in to hear both sides of the dispute.

Should the union be dissatisfied with the outcome of a grievance after its meeting with top management, it may appeal for arbitration and an arbitrator or an arbitration panel is called into being. Many civil service systems maintain arbitration boards, whose decisions on grievances usually are final and binding. In cases where local unions and city councils or county boards, or in some cases, states, have bargained a working agreement or a mutually agreed-upon personnel policy, arbitration as a final and binding way of settling grievances is included.

The steward must realize that no matter what method is used for finally settling the grievance, winning it will depend upon the accuracy of his original investigation and the care with which he recorded the facts. A union representative cannot make a successful presentation of the union's case if the original investigation by the steward was inadequate. Many experienced arbitrators will tell you that unions often lose cases, not because their cause is not a good one, but because they do not have the facts assembled carefully enough.

It should be borne in mind that arbitration is still a relatively new procedure in the public service. Many public administrators still claim that they cannot delegate their constitutional authority to a third party, and therefore refuse to grant the union an arbitration clause. In industry, however, arbitration clauses are included in almost all major contracts. Unions in industry voluntarily give up their right to strike over grievances in return for a voluntary arbitration clause.

Voluntary arbitration which is available to the union if it is not satisfied with management's decision on a grievance must not be confused with compulsory arbitration. Voluntary arbitration procedures are bargained between management and the union to deal strictly with interpretation of existing working rules; compulsory arbitration procedures are legislated and all unsettled differences between management and the union must be brought to arbitration. This could include the substance of the working rules, not alone interpretation.

Compulsory arbitration discourages collective bargaining because management may refuse to bargain on anything and force the union to accept an arbitrator's idea of what wages, hours and working conditions should be. Don't be misled by a management offer of arbitration if he has compulsory arbitration in mind.

Obtaining voluntary arbitration procedures for final settlement of grievances, coming as a result of collective bargaining with management, is one of the major goals of our union. Many locals and councils are currently increasing the pressure on management for the inclusion of arbitration clauses in contracts or working rules.

In Philadelphia, Pa., this is the next to the top step in the grievance procedure. It follows the department head step. From left around the table are Business Agent John Miller; Eli Roc, the city's labor relations consultant; Foster B. Roser, city director of personnel; Louis Wilderman, union attorney; Philip Richmond, union attorney; and Business Agents Charles Santore, Michael Devlin and Robert Willard.

Maintain the Working Rules

Sometimes you will discover a violation of the agreed rules even though the member has not come to you with a complaint. And sometimes the member doesn't want to file a grievance when you point it out to him.

The steward can't ignore these cases. Your job is to see that management lives up to the rules every day in every case. If the employer violates working rules and gets away with it on one occasion, he may try it again some other time. The member who refuses to put in a grievance is not being fair to his fellow members.

When a rule has been violated by management but the member will not back you in processing a grievance, you should talk over the problem with your local officers. If you complain to the supervisor first yourself, you may be tipping your hand to him and at the same time you may weaken your chances of convincing the member to go ahead with the grievance.

Don't Encourage Members to Take up Grievances Alone

A steward should encourage members who have grievances to come directly to him, not the supervisor. A member who does not know the rules thoroughly may let the supervisor talk him out of a just grievance. Or he may agree to a settlement that weakens the agreement and hurts others or sets a bad precedent.

Some employers encourage members to ignore their stewards because they hope to weaken the union. This kind of management thinks that if an employee can settle his grievance directly with the supervisor he will conclude that he doesn't need a union at all.

Most public administrators try to insist upon a procedure that permits employees to talk with supervisors about grievances individually. Usually employees are afraid to do this so they swallow their grievances. *The non-member who tries to settle his grievance individually will undermine conditions established by the union membership.* The higher the degree of organization of the employees into the union, the less likelihood there will be of individual non-members settling their grievances below standards.

Members who try to "go it alone" in taking up grievances with their superiors get the cold shoulder from the bosses. Without help from union they just can't make arguments stick.

Safety and Accidents

Look around your department for safety hazards. Are the floors slippery? Are the washrooms insanitary? If there are machines, are they guarded? Are electrical appliances safely grounded? Poor safety conditions mean that someday a fellow worker will be injured, his wages lost.

Safety is a serious problem in the public services. While private industry has only five man-days lost per million man-hours worked, public service loses 16 man-days for each million man-hours worked.

State laws on safety and health should be rigidly enforced. When you have looked around your department and see a safety hazard, report it immediately to management.

Because of the seriousness of the accident rate in the public service, the International Executive Board decided during its meeting in November, 1957, in Washington, D. C., to undertake a safety program with out locals and councils. The assistance of the National Safety Council and the U. S. Department of Labor's Bureau of Labor Standards have been offered to our union for development of this program.

If a Worker is Injured

When a worker is injured while he is on the job he is entitled to benefits under a state law called the Workman's Compensation Act. Some diseases caused by job conditions are also covered. Unfortunately, members often don't get all the benefits they are entitled to unless a union representative can advise them on their rights.

In most states the workmen's compensation law is full of loopholes and legal technicalities. Some employers and in-

A safety hazard on the job is pointed out to steward by a member. Now it is the steward's job to get something done about that cracked ladder that could break under a worker's weight.

surance companies take advantage of this to pay as few benefits as possible. Many employees don't understand the law and let them get away with it.

That's where you come in. Many local unions now have union counsellors, a compensation committee, or some other expert to advise injured members. But these services won't do the job unless the steward tells members about them.

Since every state has its own workmen's compensation law, the benefits are different in each state. In general the laws provide a low weekly cash payment to a worker injured on the job for part of the time he is out of work. They also

provide for payment of at least part of his medical expenses.

If a worker is killed, the laws set death benefits in most cases. If he loses a finger, a leg, or some other part of his body, the laws set up a sum of money in compensation. All these benefits are too low to make up to the worker the wages that he has lost.

Whenever there is an accident in the department the steward should advise the injured member to follow these three rules:

1. *Report the accident to the employer immediately, no matter how trivial it seems.*
2. *Don't sign any papers you don't understand. Don't be rushed.*
3. *See the union for assistance as soon as possible.*

For many years your International officers and staff have joined with leaders of unions in private industry in legislative drives to improve workmen's compensation legislation. Inclusion of public employees under workmen's compensation is still far from what it should be, so the fight continues. This is the situation of the public employee with respect to coverage under workmen's compensation:

1. Thirty-eight states cover most public employees. Administrative officers and elected officials are exempted.
2. Seven states cover public employees only in hazardous occupations. These are Maryland, Montana, New Mexico, Oklahoma, Oregon, Washington and Wyoming.
3. Four states cover only special groups. These states are Texas, Kansas, Arkansas and Missouri.
4. One state, Alabama, provides no coverage at all for public employees.

Know Labor Laws

The right to organize unions is generally accepted throughout the public services, but there are often exceptions:

Some states deny unionism to state police; some cities deny the right of organization to police officers and firemen. Officials sometimes take reprisals against an individual employee for joining a union and advocating unionism to his fellow employees.

Despite these exceptional circumstances, most public employers assure their employees that they have a right to form a union without interference or intimidation.

The National Labor Relations Act, first known in 1935 as the Wagner Act in honor of the late Senator Robert F. Wagner of New York, does not apply to the problems of employees of states, counties, cities and other local political subdivisions.

The International Executive Board at its meeting in Washington, D. C., in November, 1957, decided to undertake a militant campaign in many states to strengthen union-management relations in the public services.

The Board declared that public employees should and must have the same collective bargaining rights as workers in industry. The Board instructed the International officers and staff to press for legislation in a number of states granting public employees the right to genuine recognition and collective bargaining.

For the leaders of AFSCME and for the members of the 50 states, more than 3,000 counties and innumerable cities, establishment of the legal rights of members presents a varied and complex problem.

You should be aware of any law or ordinance in the particular situation affecting the rights of employees to have their union. Laws or ordinances appear in a number of places affecting the right to organization: State legislative enactments on labor relations may contain a sentence referring to public employees, usually exempting them from

rights afforded to employees of private business; county ordinances may affect county employees; and in cities there may be a portion of the city charter itself as well as ordinances devoted to the subject of employee rights to organization.

The Right of the Union to Function as a Union

Even though the right to organize a union is assured, definition of how it may function may present the union with severe limitations. For example:

The best place to win settlement of a grievance is between the steward and the member on one hand and the immediate supervisor on the other. The principle here is that justice delayed (by lengthy procedures for a grievance) is often justice denied. Yet in some states, counties and cities where the right to organize a union is solidly assured, stewards are denied the right to represent a member. The rules often state that the individual worker must present his grievance alone to the immediate supervisor for settlement. Only if the individual is dissatisfied with the supervisor's decision may he then be represented by the union at a higher level.

Experience clearly shows that most employees are fearful of taking a grievance to the supervisors by themselves. The result is that they "swallow" their grievances and sometimes quit in disgust. High turnover of employees in public service can often be traced to the large backlog of unsettled grievances.

AFSCME and its officers are not satisfied at all with having a "right" to organize the union without also having the right to have it function as a union. In the effort to win full rights to unionism, the persistence of the stewards in trying to win quick and just settlement of the employee's grievance is of crucial importance.

Employees are able to see and understand an activity which results in improving working conditions and seeing this are attracted to the union. Organization of employees into union membership may come about as a result of effec-

tive handling of a grievance far more quickly than from any other more complex activity of the union.

The more you know about how to take up a grievance and the more you are aware of the various legal conditions in your situation affecting the work of the union, the more effective your work will be. With improved grievance procedure, the whole union gains in membership and strength, and the work of the public service will be improved and employees will have a more satisfying work experience.

The Fair Labor Standards Act

This federal law sets a $1 minimum hourly wage and provides that all time worked over 40 hours in a week shall be paid at the rate of time and one half. This good law does not apply to employees of state and local governments, only to workers employed in industries in interstate commerce. Many employees in the public services find jobs there after they have worked in industry, and often they question why laws that covered them before do not cover them in a public employee job. The U. S. Congress may not legislate on matters strictly within the jurisdiction of a state government. Unless the union is able to bargain for time and one-half for overtime, or persuade its state legislature to pass such a law, the usual rule is straight time payment for overtime. In some cases, compensatory time off is the rule.

Social Security Act

This law sets up a national insurance system, financed by contributions from workers and employers, which provides monthly payments in the event of old age or death. The law also provides for unemployment compensation but allows the individual states to decide how it shall be financed and what benefits will be paid.

Old Age, Survivors and Disability Insurance now protects most workers and self-employed persons in the U.S.A. There are three times when a steward should advise a worker or

Retired members in Philadelphia are entertained at a retirement dinner which was held in their honor by District Council 33. Union won the retirement plan from the city.

family to consult the local social security office (to find the address, look up Social Security Administration under U. S. Government in your telephone book):

1. *Retirement Age.* A male or female worker who has paid into the fund for the required number of quarters is entitled to monthly Old Age and Survivors Insurance benefits at age 65 unless he or she earns more than $1,200 in a year and more than $80 in any month during the year. A female worker may retire at age 62 and receive 80 percent of the full benefit. Wives of retired workers may receive at age 62, 75 percent of the amount payable at age 65.

2. *Death.* Survivors' benefits are paid to the family of the worker who dies. Monthly payments go to widows with children under 18, to each child under 18, to widows 62 or older and in some cases dependent parents and widowers. For example: A dependent mother of an insured worker who dies leaving no widow, widower or child. The family may also be entitled to a lump sum for burial expenses. These benefits are insurance. A worker does not get them unless he has paid into the social security fund, and the amount he or his family gets depends roughly on his average monthly wage.

3. *Disability.* Workers who are totally and permanently disabled are entitled to full social security benefits after age 50. This 1956 amendment passed by the 84th Congress represents a new and important form of coverage. It was passed only after strong objections by those forces that have opposed social security legislation from its beginning.

Labor thinks that old age, survivors and disability benefits are too low. A retired worker can now receive from $30 to $108.50 a month. Even this low figure has been reached only because AFL-CIO and other liberal groups have kept up a steady fight in Congress for improvements.

What's more, there is still no social security protection for workers who are sick, although the purpose of the law is to protect a worker's standard of living when income drops through no fault of his own.

Only a few states provide cash sickness benefits for the worker who is ill and cannot work for a time. AFL-CIO has been urging Congress to expand social security to provide workers with insurance benefits, not charity, in times of sickness.

AFSCME joins with all other AFL-CIO unions to press vigorously in the Federal Congress as well as state legislatures for sickness compensation on the same basis as unemployment compensation. Inclusion of public employees in Old Age and Survivors Insurance under the Social Security Act was a major victory of our International union. AFSCME will continue to advocate improvement in unemployment compensation and new laws providing sickness compensation.

Workmen's Compensation

These are the state laws which provide benefits and medical care for workers injured on the job or ill with an occupational disease. But they don't help the worker enough.

When these laws were first passed they provided weekly benefits that were about two-thirds of the average weekly wage. But the laws have not been changed to keep up with the rise in wages and cost of living. The maximum weekly payment in any state is $40. Employers fight any change because it would cost them more money. It seems that federal legislation is needed to raise the level of payments and eliminate unfair practices that deprive workers of their just compensation.

Unemployment Compensation

The 1937 Social Security Act forced the states to provide unemployment benefits. However, the amount of unemployment compensation and the number of weeks you can get it vary from state to state. Each state also sets up certain requirements, often unfair, which a worker must meet in order to get benefits. Since the laws are complicated and tricky, a steward who understands his state law can be of great help to the members. (Get explanations of your own state law from the state employment office.)

The most money that an unemployed worker can receive is $25 to $45 a week, depending on the state. This is the maximum for one person, but some states also pay small additional benefits for dependents.

Obviously, these benefits are not enough. The number of weeks they are paid is too short. Labor is trying to improve state laws and also to convince Congress to pass a federal law setting minimum standards on benefits that the states must live up to.

"Right-to-Work" Laws

There are now 18 states that have passed laws outlawing the union shop, the closed shop or a maintenance-of-membership clause in a union contract. Many of these same laws restrict other union security measures, such as the checkoff of union dues and limit picketing activity.

To make these laws sound appealing the employer groups

This is the final step to which a grievance can travel in the city of Philadelphia—up to the mayor, managing director and the personnel director. From left, around the table are Personnel Director Foster Roser, City Managing Director Donald Wagner, Mayor Richardson Dillworth, Council 33 President William J. McEntee, and Business Agents John Miller and Robert Willard.

behind them call them "right-to-work" laws. This is a phony slogan. A law like this does not guarantee a person a job. All it guarantees is the right to work next to a man who takes all the benefits you and the union fight for, but which he never pays for in the form of union dues.

Recognizing that "free-riders" weaken the union, business groups like the Chamber of Commerce and the National Association of Manufacturers are pushing "right-to-work" laws in the state legislatures.

Steward's Dictionary

Arbitration—This is a way of finally settling a grievance. By agreement, a third person, someone not connected either with management or the union, is called in to hear the facts. His decision is binding on both parties.

Bargaining Unit—A group of employees who bargain collectively with their employer. Custom has designated both the industrial type and the craft type of bargaining unit to be appropriate and federal law recognizes both. AFSCME is an industrial union because it takes into membership all public employees in a given jurisdiction and bargains for them. Exclusive bargaining means that one union is recognized as the sole collective bargaining representative for all the workers in the agreed-upon jurisdiction.

Checkoff—Dues deduction by the employer is sometimes called checkoff. The deduction is made periodically from each member's paycheck and the total sent to the union.

Closed Shop—A plant employing only union members. The closed shop is illegal in industries in interstate commerce. It is also illegal in many public employee jurisdictions.

Collective Bargaining—The process of working out a contract or settling grievances between management and employees, with one agency (the union) speaking for all the workers in the bargaining unit.

Company Union—A union dominated by the employer. Such an organization is illegal under federal laws in industries in interstate commerce. In the public services, however, there are many so-called company unions, usually called "associations." (Exception is the Wisconsin State Employee Association which is affiliated with AFSCME.)

Associations are usually dominated by managerial personnel in state and local governments and meet the definition as company unions.

Conciliation or Mediation—A number of states provide a mediation and conciliation service in their departments of labor, and its services are available to our union. When a dispute occurs during bargaining that cannot be settled, either management or the union may call for the services of the mediator. The mediator attempts to bring the parties together and, by "seeing both sides," to provide a new solution acceptable to both parties. State mediators cannot order acceptance of a solution but can only persuade.

Discrimination—Unequal treatment of workers for reasons of race, creed, color or national origin or some other reason not connected with work performance.

Free-Rider—(Free-Loader) An employee who accepts benefits won by the union but who refuses to join the union.

Fringe Benefit—All money benefits in the agreement defining conditions except wages—insurance, health and welfare, medical programs, holidays, vacations and sick leave, for example.

Improvement Factor—An automatic annual increase in pay based on the assumption that increased productivity has brought greater efficiency. New methods and new machines make it possible for each individual worker to produce more.

Local Government—Local government includes all political subdivisions established under a state constitution. These include cities (municipal governments), counties, townships, villages, school districts and special authorities—transit, bridge, sanitary, water, irrigation, improvement and many others.

Maintenance of Membership—Agreement with management that any worker who voluntarily joins the union must remain a member in good standing as a condition of employment.

Open Shop—A place where union membership is not required as a condition of securing or retaining employment.

Scab Shop—A place where the union of employees is not recognized at all by the employers.

Seniority—A worker's length of service with an employer. Seniority applies to promotions, layoffs, recalls, transfers. In case of layoff, the seniority clause usually means that the last person employed is first to be laid off.

Severance Pay—A lump sum payment by the employer to an employee who is laid off permanently through no fault of his own.

Union Security—Agreement with the employer that membership in the union is a condition of employment. There are several ways of stating a union security measure—union shop, modified union shop, maintenance of membership.

Union Shop—A place in which every worker benefitting by collective bargaining must become and remain a member of the union.

A Message

From The President

To Stewards and Members of Committees:

Our local unions are successful to the extent that our members are informed and participate actively in making decisions and taking actions to win their goals.

Our stewards in departments of state and local governments throughout the country are very important members because they represent their fellow employees before management, they keep our members informed of what is going on in the union, and they build membership by recruiting employees into the union.

We will win true collective bargaining with the public employer mainly, and perhaps only, with the active assistance of our stewards. This manual was designed to help our stewards to better perform their most important jobs. We at International headquarters hope this manual will help you in this work.

Sincerely and fraternally,

Arnold S. Zander

Arnold S. Zander, *President*

American Federation of STATE, COUNTY and MUNICIPAL EMPLOYEES

1 PRINTED IN USA

AFL-CIO

The Public Employee

April 1959

OFFICIAL PUBLICATION — AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES—AFL-CIO

What a Public Employees Union Means

(A Message to Our Local Unions)

The field of unionism among state, county and municipal employees is highly complex. Employees work for more than 100,000 different employers, under a patchwork of differing conditions.

Only one union has the know-how to pull together the diverse strands. Only one union can close the gap between public and private employment conditions.

That union, of course, is AFSCME—the union for public employees.

Ours is the union which has worked to replace political patronage by merit systems. We have helped to bring clean government to scores of cities and counties. We have won civil service, social security and retirement benefits for thousands of public employees. AFSCME is making collective bargaining an accepted practice in the public service.

There is sheer logic in the fact of one union for state and local government employees, just as it is logical for there to be one union for steelworkers, one union for newspapermen, one union for teachers and one for fire fighters.

The logic is so overwhelming that time is on our side. Others may try to enter this field of organization. They will come and they will go. But AFSCME will continue in its position as the union for state, county, municipal and civic employees.

That is why each local union should strengthen its ranks today and strive for the 100 percent unionism that will bring greater benefits to our members.

Yes, time is on our side, but we must not wait idly. We must build our union now. Every member an organizer!

Arnold R. Zander

The Public Employee

Official Publication of

The American Federation of State, County and Municipal Employees
Affiliated with The American Federation of Labor—Congress of Industrial Organizations

Arnold S. Zander.....Editor and Manager

Tom Moore McBride.....Managing Editor

Published monthly except August, by The American Federation of State, County and Municipal Employees (AFL-CIO) at 810 Rhode Island Ave., N. E., Washington 18, D. C. Address all correspondence for publication to 815 Mt. Vernon Pl., N. W., Washington 1, D. C. Subscription rate: $2 a year. Second class postage paid at Washington, D. C.

POSTMASTER: Please return Form 3579 to Public Employee, 815 Mount Vernon Pl., N. W., Washington 1, D. C.

Volume 24 | April, 1959 | Number 4

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Leo Kramer Named Assistant To President; Lima Moves Up

Two important changes in staff in the New England region have been made—Regional Director Leo Kramer has been transferred to Washington as an administrative assistant to President Zander and Assistant Regional Director George Lima has been made acting regional director.

Brother Lima is well qualified to fill the gap created by Kramer's new assignment, for he directed the region competently while Leo spent a year in Great Britain studying the public employee union movement under a Fulbright grant.

Brother Lima also has studied extensively in the labor field. In 1956 he was granted a scholarship by Harvard University to study labor relations.

Coincidentally, Brother Kramer's shift to Washington on March 30 came on the eighth anniversary of his appointment as New England regional director.

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More Recognition!

Cincinnati Council Gains Representation Rights for Six More Departments, Wins Another Wage Hike, Fringes

● Cincinnati District Council 51 has successfully gained formal representation rights in six city departments over the past six months and has won another pay increase for city workers.

"Memoranda of Understanding," providing such things as specific recognition, grievance procedure with adequate time for stewards to investigate and process grievances, were signed by department heads and local union bargaining committeemen. They have been concluded in Highway Maintenance, Waste Collection, Municipal Garage and Inspection Lane, Sewage Disposal, Public Utilities and Workhouse.

Other agreements are in the process of negotiation with the Water Works, General Hospital and other city departments.

AGREEMENT: Officials of the Cincinnati Workhouse sign a "memorandum of understanding" for 1959 with officials of Cincinnati Workhouse Employees Local 898. Seated from left are Captain Lobek; Workhouse Superintendent George Studt, and Local 898 President Bernard Kemper. Standing from left: Al Bilik, business representative, District Council 51; Ollie Cohorn and Eugene Poole, members of Local 898's bargaining committee.

ACCORDING to agreement wages and overall fringe benefits are separately negotiated annually, directly with the city manager and the personnel director. Departmental agreements cover specific working conditions.

The pay increase won by the council was the fifth in as many consecutive years. The agreement this year called for a 3 percent raise on the first $4,500 of salary and 2 percent on the remainder to a maximum increase of $240 a year. Further provided was a minimum increase of $100 a year.

These wage increases now bring the going minimum wage for any classification in the city service, including the General Hospital, to $1.42 an hour. The minimum rate for laborer is now $1.93 an hour and for truck driver, $2.25 an hour.

The Council also reached an agreement with the city management, subject to city council approval, establishing an unemployment compensation plan in the event of lay-off of regular full-time employees.

The bargaining committee included District Council President Bill Horstman, International Vice President Henry Ostholthoff, Walter Carruthers, Bob Welsh, Woody Eldridge, Bill Richard, Charles Whitehead, Al Fikes, Harry Wilson, Esther Eiselein, Bernard Kemper, and Business Representatives Al Bilik and Joe Bloemer.

CITY PERSONNEL Director W. D. Heisel told delegates to our International convention in Cincinnati last year that the city of Cincinnati recognizes the rights of public employees because our union representatives and officers are willing to work with city officials in improving the service rendered to the public.

He said: "Some governments are inclined to oppose recognition of public employee unions because, they say, 'you can't carry water on both shoulders' —you can't be faithful union members and loyal government employees.

"I maintain that it can be carried on both shoulders if both are going in the same direction. That direction, of course, is service to the public, and in Cincinnati there is no question about where we are going." ●

AFL-CIO Campaign:

'Meet America's Human Needs'

Executive Council Plans Conference On Unemployment, Legislative Action

• The AFL-CIO will throw its full resources into an all-out campaign against chronic unemployment and economic stagnation, the Executive Council decided during its sessions at San Juan, Puerto Rico, last month.

Labor's campaign will embrace a comprehensive legislative program and a large-scale conference to be held in Washington on April 8 to dramatize the desperate plight of millions of unemployed.

The AFL-CIO's program against stagnation and unemployment will have as another of its main pillars a collective bargaining program by affiliated unions geared to substantial wage increases to expand purchasing power in the hands of consumers.

GEORGE MEANY, president of the AFL-CIO, in announcing the Washington conference keyed to the theme "End Unemployment—Meet America's Human Needs," summarized the midwinter Council meeting as "one of the best we've had in a long time." He said the Council had given more thorough study to economic problems facing the nation than ever before because "we're in trouble, the country's in trouble."

The Council declared the conference was designed to dramatize the plight of the jobless and to petition the President and Congress to take immediate, effective steps to get the nation's unemployed back to work.

The Executive Council voted a special assessment of one cent a member per month for the next six months to create a special fund to be used for emergency problems. organizing, contributions and other AFL-CIO programs. Mr. Meany said the assessment will bring in about $750,000 for the six-month period.

The Executive Council called on the free world to adopt a six-point program to save West Berlin's freedom, including a United Nations-supervised plebiscite, United Nations supervision of communications between West Berlin and West Germany, and a special session of the UN General Assembly if negotiations on Germany fail.

AFL-CIO unions, said President Meany, will continue their historic bargaining for shorter hours. A workweek of less than 40 hours is prevalent in many organized industries, he pointed out. The Council's approach, he stressed, is a legislative approach.

The hour provision of the Wage and Hour Act has not been changed since the passage of the law more than two decades ago.

Creation of a national commission to investigate and analyze the price structure, in light of the "naked prejudice" exhibited in an attempt to place the blame for rising prices on organized labor, was urged.

Free labor should not send delegations to Communist or other totalitarian countries, the Council said. The myth that Soviet Russia is "a workers' state" was condemned by the AFL-CIO leaders.

The Executive Council condemned the "brutal program of totalitarian oppression" carried on by the Franco dictatorship in Spain. The AFL-CIO leaders called on the United States government to make known to Franco that continued terror will build opposition to continued American economic aid to Spain.

IN ANOTHER ACTION, the Executive Council pledged the aid of the AFL-CIO in supplying the personnel "capable of assisting in the development of strong African trade unions" and in the promotion of free world labor policies and programs throughout the continent.

The Council called on the International Confederation of Free Trade Unions to expand greatly its African activities and, through the governments of its affiliated members, to press for the end of colonialism on the continent.

The Council called on the United States government to strive to persuade "our European allies" that achievement of independence in the various countries of Africa is essential to the survival of the free world. The Council urged the United States to recognize these new states "speedily."

In regard to housing, the leaders of the AFL-CIO called on Congress to "reject the Administration's turn-back-the-clock proposals" and urged the enactment of the best features of the Sparkman and Rains bills as "the first essential step toward development of the full-scale housing and urban redevelopment program the nation will need to assure prosperity and sustained growth in the years ahead."

THE DOUGLAS-COOPER bill on aid to distressed areas was endorsed. The Council backed a $2 billion federal loan program for community facilities at reasonable interest rates. Such a loan program would help many communities which have encountered financial hardship as a result of expansion in many regions of the United States.

The Administration's concern with inflation was scored as particularly unrealistic inasmuch

SESSION: The AFL-CIO Executive Council deliberates a point during one of its sessions in San Juan, Puerto Rico. President Meany described the meeting as "one of the best."

as a "shockingly large number" of Americans remained "ill-fed, ill-clothed and ill-housed" last year. The Council said more than 40,000,000 Americans were members of families of two or more persons living on incomes of less than $3,000 or were living alone on less than $1,500.

While the Executive Council was in session, it was revealed that more than 1,000,000 members have come into AFL-CIO unions in the last three years. This was made known by John Livingston, director of the Department of Organization.

The Department of Organization, he reported, is sponsoring a series of organizing conferences to help state and city bodies as a follow-up to the successful national organizing conference held recently in Washington. •

75 Percent of Our Members Have Union Dues Checked Off

• About 75 percent of our members pay their union dues through the payroll deduction plan, a recent survey by the Department of Research and Service has shown.

The survey revealed that approximately 150,000 members of 873 local unions, or roughly 55 percent of our 1,600 locals, have their union dues deducted from their paychecks.

This is in striking contrast to the situation which existed in 1949 when a similar survey showed that only 33 units of government had approved checkoff of union dues. Since then, more and more locals made payroll deduction of union dues as a "must" issue in their negotiations, recognizing that their staff representatives were spending a disproportionate amount of time collecting dues. This left precious little time to the all-important tasks of organizing and service.

Although locals in 38 states and Canada have negotiated the checkoff, the majority of them, 517, are found in five states. They are Michigan, 156; Wisconsin, 107; Massachusetts, 87; Minnesota, 84, and New York, 83. Among the major cities which have payroll deduction of union dues are New York City, Detroit, Philadelphia, Miami, Milwaukee, Boston, Los Angeles, Cincinnati and Denver.

A further breakdown of the survey report showed that dues deduction has been negotiated by 443 city employee local unions, 301 state employee locals, 107 county employee locals and 18 joint city-county employee locals.

Most units of government provide the dues checkoff service without charge to the local unions, but others assess fees ranging from two cents a deduction on a bi-weekly basis to 25 cents a month per member.

At least 12 states, according to available information, have agreed to dues checkoff, and all of them provide this service without charge. They are Colorado, Connecticut, Massachusetts, Michigan, Minnesota, New York, North Dakota, Pennsylvania, Rhode Island, Tennessee, Utah and Wisconsin.

To Keep City Brotherly

Council 33 Aids Philadelphia In Reclaiming Wayward Youth

• District Council 33 and the city of Philadelphia are facing up to the knotty problem of juvenile delinquency, which plagues every major city in the country.

With its Vice President John Miller serving on a special committee, the council is doing its part in a "work" program to keep the minds of eventually some 250 boys from thinking first of mischief and then of crime.

Starting April 1, the first group of 50 boys from the ages of 16 to 18 were put to work in the famed Fairmont Park removing fallen trees, exterminating weeds and maintaining trails.

Philadelphia's juvenile delinquency problem came dramatically to light about a year ago when Oh In Ho, a Korean exchange student, was cruelly murdered by a band of Negro youths on the edge of the University of Pennsylvania campus.

RACISTS sought to make the most of the problem for their sinister purposes, but calmer minds prevailed when it was realized that the brutal crime served to call attention to the problem of juvenile delinquency which is not a matter of race, creed or color.

At the height of the furor a letter came from the Korean boy's parents begging mercy for the hoodlums and appealing for understanding of their problem.

Officials of Philadelphia—which is known as the City of Brotherly Love—and its responsible citizens were deeply disturbed and wrestled with the problem.

It was decided that more playgrounds were not the answer to the problem of keeping youngsters with active minds from straying into the paths leading to crime. The "work" program was given the nod when it was learned that a similar project was proving successful in faraway San Francisco.

AS A Philadelphia church secretary put it, the youngsters want to work, "to do something with their muscles and abilities and be proud of the results."

Council officers were called into consultation with Mayor Richardson Dilworth. Council 33 is the sole bargaining agent for 18,000 city employees, including those who work in the parks.

Like the responsible citizens they are, members of locals affiliated with Council 33 are deeply concerned with the problem, for many of them have children whom they support through their labor.

Once it was determined that the project would not displace regular workers in the city's park system, Council 33 threw its wholehearted support behind the proposal. The touchstone of that support was the appointment of Brother Miller to the special committee.

The initial group of 50 boys was selected jointly by the department of public welfare, the board of education, the juvenile aid division of the police department and municipal court.

During the school year they work 20 hours a week for 10 weeks. Come the summer vacation, they will work for 10 weeks.

BROTHER Miller serves on the committee directing the program with representatives of the four agencies already mentioned, who select the youths, and of the Fairmont Park Commission and the department of recreation.

The boys are taken to and from Fairmont Park in school buses. They are provided with a lunch of sandwiches, milk and fruit. There is an overall supervisor and five leaders, one for each 10 boys.

As a result of a broadcast by the ever-alert AFL-CIO commentator Edward P. Morgan, a Quaker in San Francisco reported the successful operation of a "work" plan there and other advice doubtless flowed into the Philadelphia city fathers which led them to decide on the program.

THE boys are paid 50 cents an hour for helping to keep the famed park beautiful so that they realize that their efforts are not unrewarded.

The cost of the project will be a small price to pay for the reclamation to society of youths who might otherwise have continued to go astray.

District Council 33, headed by William J. McEntee, who also is an International vice president, is proud to play its part in this project which will help keep Philadelphia worthy of continuing to be called "the City of Brotherly Love." •

175 Members of Congress Respond to Zander Letter

Last month the members of the House of Representatives and U. S. Senate were added to the mailing list for *The Public Employee*. International President Arnold S. Zander sent a covering letter with an issue of the magazine to each member of the Congress, setting forth our objectives and goals.

The response to President Zander's letter has been most gratifying. To date 46 senators and 129 representatives replied to his letter.

More Waterfront Jobs

Maritime Trades Department, AFL-CIO Strikes Blow Against 'Runaway' Shipping

By Harry E. O'Reilly

Executive Secretary-Treasurer
Maritime Trades Dept., AFL-CIO

• All affiliates of the Maritime Trades Department have good reason to be pleased and proud over the remarkable success of the massive demonstration earlv last month against ships flying the "flags of convenience" of Panama, Liberia, Honduras and Costa Rica.

The subterfuge behind the practice of U. S. shipping operators adopting "runaway" flags to escape decent wages and working standards and their just share of federal taxes is fraught with serious implications that extend beyond the immediate and disastrous effects on American seamen's jobs.

In the current issue of the *AFL-CIO Federationist*, Harry Pollack, Associate Inter-American Representative, writes:

"Runaway American industries, long accustomed to jump state lines in search of cheap labor, special tax concessions and other benefits, are now eyeing target locations across international boundaries."

Pollack's report deals with the massive "Freeport" being built on Grand Bahama Island, 100 miles northeast of Miami. This project, promoted by American interests, plans to attract U. S. industrial plants to the island.

OBVIOUSLY, all of our affiliates, as well as other unions in the AFL-CIO, have a direct interest in the problem of "foreign runaways."

In the U. S. shipping and shipbuilding industries, the "runaways" to foreign flags already have had a terrible impact.

Almost half of the 2,000 vessels—42 percent to be exact—registered under "runaway" flags are American owned.

More than 15,000 U. S. seamen have been fired from jobs on ships which have transferred to the flags of convenience in the last ten years. In addition, ships built abroad by "runaway" operators and registered under foreign flags have accounted for the loss of thousands of other jobs which normally would have gone to U. S. seamen.

According to some calculations, if the estimated 600 American-owned active vessels now flying Panamanian, Liberian, Honduran and Costa Rican flags were under the U. S. flag, it would mean 30,000 jobs for licensed and unlicensed American seamen.

The "runaways" have exacted a terrible burden of hardship on American seamen and their families.

They have also reduced the U. S. to a fourth-rate maritime power. The tiny, unstable nation of Liberia, which ten years ago had only five ships, has replaced the U. S. as a "maritime power."

In their defense of "runaways," the operators tell us that American-owned ships under foreign flags would be "ready" for service in case of national emergency.

Anyone who swallows that kind of tripe simply doesn't care what he swallows.

COMMON SENSE should tell us—and past experience has proved it a fact—that what we must have in a world crisis is a strong merchant marine flying the American flag and manned by American crewmen.

If we try to settle for less, we'll be writing our own ticket to disaster.

In view of all these facts, on which all our MTD affiliates feel so strongly, the success of the December 1-4 demonstration is gratifying. We have shown that inter-union cooperation can be dramatically effective, and we have given notice we intend to employ that cooperation to protect our American maritime industries and the jobs of maritime workers.

Success of united maritime labor's protest caps a series of encouraging signs that the "runaways" might be running on unsteady legs. These have been:

- A legal victory last May by the Seafarers International Union, in which the National Labor Relations Board ruled that the "runaway" *SS Florida* was subject to U. S. labor law. The *SS Florida* was flying a foreign flag, but the Board held that it was an American ship engaged in American commerce and thus subject to the law.
- A ruling by a federal district judge early this month that creation of a "runaway-flag" operation by an American corporation did not absolve owners of their obligations and that seamen can sue such corporations under the Jones Act for injuries. The suit involved a Greek crewman of the Panamanian-flag *Marcella*.
- The ruling of Judge van Pelt Bryan in refusing "runaways" an injunction against this month's demonstration, in which he suggested proper jurisdiction for the dispute would be the NLRB. This would appear to strengthen the trend set by the above two rulings toward placing NLRB in authority over "runaways."
- An announcement by Costa Rica that registries of all "runaways" under that nation's flag will be cancelled effective December 31. This action involves 122 ships and effects some 810,000 deadweight tons of shipping. •

Tribute to Our Union

Illinois Personnel Supervisor Cites Service to Mentally Ill

● Leslie T. Thornton, supervisor of Personnel Service, Illinois Department of Public Welfare, paid tribute to the cooperativeness of the AFSCME in general and to International Organizer "Tiny" Groeteke in particular in a message read at the installation of officers meeting of Illinois State Research Hospital Employees, Galesburg, Local 1274.

Illness prevented Mr. Thornton from being present to deliver his address. The prepared message was read for him by Dr. Thomas T. Tourlentes, superintendent of Galesburg State Research Hospital.

THE MESSAGE cited the advances in the care of the mentally ill and retarded in the state of Illinois. It said that the major part of the responsibility for the progress could be directly attributed to the employees involved in care and treatment programs.

Mr. Thornton said that he hopes that all employees are genuinely proud of their status and of their part in the State Hospital organization. He suggested that employees' feeling toward their job and position should be frequently analyzed and reviewed.

President Florence Robertson of Local 1274 gave a brief resume of the history and structural organization of the AFSCME. She cited the right to organize as an inalienable right to which public employees are as much entitled as employees in private industry. She also rejected the implied premise that seeking better conditions for their own sake is somehow wicked when it comes to public employees. She said that public employees need financial security as much as any other kind of employee.

INTERNATIONAL Organizer C. "Tiny" Groeteke administered the oath of office and installed the new officers of the local. They are Mrs. Robertson, president; Mrs. Lucille Wolfe, first vice president; Mrs. Sylvia Eaves, second vice president; Arthur Trammell, third vice president; Mrs. Erma Shaw, secretary; Mrs. Gertrude Houston, treasurer; Mrs. Maxine Alstedt, Mrs. Mary Farquer, Mrs. Lois Stacker, Maurice Lyons, Leonard Russell and Edwin Wagoner, members of the executive board; Mrs. Mildred Oakes, Dorence Woolsey and Mrs. Adelaide Carrigan, trustees.

Service awards pins for four years of uninterrupted dues-paying membership were awarded to Mrs. Edna Davis, Mrs. Erma Shaw, Mrs. Hortense Middaugh, Mrs. Alice Shreeves and Mrs. Grace Thoureen. Mrs. Thoureen, retiring secretary of the local, was presented with a hand-painted ceramic compact as a token of appreciation for her untiring and constant devotion to the local from the beginning of its organization.

Thirteen new members were initiated at the meeting. This points up the fact that this local grew from an original membership of 13 to more than 300 members in less than a year. ●

OFFICERS: Here are the newly installed officers of Los Angeles City Employees Local 801. Seated from left are Charles Moody, vice-president; Samuel F. Burden, steward, North Central; Eldridge Mallard, steward, Central; A. B. Johnson, trustee; Leonard Perry, trustee, Cleveland Jones, steward, Valley traffic department; J. C. Maupins, chief steward. Standing from left, C. Hogan, Council 20 representative; Walter Walters; Walter H. Murphy, Council 20 president; William Irvin, secretary-treasurer; Daniel Scannell, regional director; James Couch, Jr., secretary of Local 801; Richard Baisden, U.C.L.A. administrator, and C. P. Pierre, president of Local 801.

What the Congress Is Doing

By Gordon E. Brewer
Civil Service Counsel

• Congress is proceeding slowly during this session, with the majority of the work being done in committees rather than taking the form of concrete legislative action on specific bills. AFSCME, of course, shares with the labor movement general interest in a large number of bills which have been introduced thus far during the session.

It is our feeling here in Washington that the Forand Bill, H. R. 4700, is of most interest to AFSCME members throughout the country. The passage of this bill would affect every member of our union who will some day draw social security benefits. The Forand Bill, if passed, will pay in full for 60 days of hospital care for all persons eligible for or drawing old age and survivors insurance benefits. It will also pay for skilled nursing home care following hospitalization and for surgical services. The cost of these services would come from the trust fund, to which all of us covered by social security have contributed.

ENACTMENT of the Forand Bill would permit hospitals to follow patterns now being used under government and private plans in calculating reasonable costs for these services. Passage would not permit any administering agency to interfere with hospital administration or the private practice of medicine. The bill will increase contribution rates by one-quarter of one percent by employers and employees so that the trust fund will be continued on a sound basis.

These health benefits are badly needed because most aged persons have low incomes. Medical costs are continuing to rise and commercial insurance either is not available or is far too expensive for people beyond age 65. Even though you may not be covered by social security benefits this proposal will benefit you, since it will help 15,000,000 Americans, will relieve hospitals and assistance agencies and permit unions and Blue Cross to increase other protection for persons still at work.

Each and every union member should write at once to the Hon. Wilbur Mills, chairman of the House Ways and Means Committee, House Office Building, Washington 25, D. C., urging prompt hearings on the Forand Bill. At the same time, you should write to your own representative and U. S. senator, urging that they take all appropriate steps to secure the passage of H. R. 4700.

AMONG other proposals with which we should be familiar is the Karsten-Machrowicz Bill, H. R. 3547, and the Kennedy-Case Bill, S. 791, which would provide for federal minimum unemployment compensation standards needed to increase the amount and duration of weekly benefits. Hearings on this proposal will commence before the House Ways and Means Committee on April 7.

Again, members are urged to write to the committee and their individual congressmen and senators, asking for favorable action on this bill. At the present time, state employees are covered in eight different states; some city employees in ten states, county employees in four states, and other political subdivision employees in six states. Proposals to extend this coverage to state and local government employees are pending in a number of state legislatures.

Committee hearings have been completed in the Senate on the Kennedy-Ervin Labor Management Reporting and Disclosure Act of 1959, S. 505. At the present time, unions such as ours will be covered by the reporting provisions of the bill, but employers such as the state and subordinate political subdivisions will not be covered. •

President Zander Will Be Featured Speaker At Social Welfare Conference 1707 Meeting

Prof. Seymour Martin Lipset, professor of sociolgy at the University of California, Berkeley, will share the platform with International President Arnold S. Zander at a meeting sponsored by Community and Social Agency Employees Local 1707 at the National Conference on Social Welfare at San Francisco.

This is the first time that there will be an associate group meeting for AFSCME members—and others who are interested—at an annual meeting of NCSW. The meeting will be held from 4 p. m. to 5:30 p. m., Thursday, May 28.

The subject of the two speakers will be "The Professional and the Union." An outstanding sociologist who has also made studies in the labor field, Prof. Lipset has the distinction of having been chosen to deliver an Eduard C. Lindeman lecture at a session of the main meeting.

Some 5,000 delegates are expected to attend the conference, a number of them from 50 AFSCME locals which have social workers as members. For the third successive year, there will be an AFSCME booth at the conference.

Organizing the Organized

Five Locals in Madison, Wisconsin, Vote To Form Single Organization to Build Union

• "Organizing the organized," a new concept in our union, was brought into being when five Madison, Wis., public employee unions voted to form a single organization to meet the needs of 298 city employees.

The new organization will be known as Madison Civil Service Employees Local 60. It absorbs Madison Board of Education Employees Local 710, Madison Clerical and Administrative Employees Local 520, Madison City Employees Park Department Local 60, Madison City Employees Local 480, and Madison Traffic Engineers Department Local 1573.

These five locals had been going along for years, each taking its own course toward solving its own problems, except on special occasions when they felt compelled to act together. Even then they frequently went off in five different directions, which often weakened the labor front in such important matters as bargaining and negotiating policy. Frequently one or two locals would suffer unfair treatment under this system. Something had to be done.

CONSOLIDATION: Gordon Brewer, AFSCME Civil Service Counsel, presents a charter to the newly consolidated Madison public employees local at a meeting where five locals voted to become one. From left, Roland Annen, temporary sergeant-at-arms; Jean Greenway, temporary secretary; George Behrnd, temporary treasurer; Frank Dvorak, temporary president, and Brother Brewer.

THE NEW PROGRAM promises to give a tremendous boost to our organizational work, both at the Council level and at the local level. It should help to build a stronger and more secure public employee union movement throughout the state.

The merger was approved at a meeting at the Labor Temple in Madison by the general membership of all five locals.

Mayor Ivan Nestingen of Madison spoke in favor of consolidation. He pointed out the advantages of a coordinated approach to bargaining with the City Council.

He praised the groups for promoting good public relations for organized labor and added: "Organized labor in city government has always been a reasonable organization." He pointed to recent elections which, he said, seem to presage a more favorable attitude toward the labor movement.

GORDON BREWER, the AFSCME Civil Service Counsel, told the group: "The labor movement favors merger. The goal is to avoid misunderstanding and dissension by providing the most effective method of collective bargaining."

Marvin Brickson, president of the Madison Federation of Labor, said that unity has always been the beginning of any labor organization. "One organization," he said, "provides a better bargaining policy."

Robert J. Oberbeck, executive director of Wisconsin County and Municipal Council 40, assured the members that no individual or group identity would be lost in the larger organization.

New by-laws adopted by the new organization provide for equality of distribution among the five parent groups in the election of officers. The president, secretary, treasurer and sergeant at arms are to be elected from the entire membership with not more than one of these officers coming from one department. Six groups—the park department, Board of Education custodial employees, water department, traffic engineers, administrative and clerical employees, and the street department—are to be represented by two vice presidents each elected from among their members. A first vice president will be elected from and by the vice presidents. The officers, except the sergeant at arms, will make up the executive board.

Election of permanent officers has been announced for the first general meeting of the new organization. Temporary officers have been named. They are Frank Dvorak (water dept.), president; Jean Greenway (clerical and administrative), secretary; George Behrnd (park dept.), treasurer; Roland Annen (traffic engineers), sergeant at arms.

Headquarters Building Fund

All Utah Locals Qualify for 100 Percent Citations; Denver Local 158 Tops Month with $1,324 in Cash

• All local unions in Utah have now contributed or pledged to contribute 100 percent to AFSCME's Building Booster Fund and are entitled to 100 percent citations.

This means that every local in the state has contributed or pledged to contribute $2 for every member.

Denver, Colo., City Employees Local 158 also has earned a 100 percent citation. Its 662 members paid their entire pledge of $1,324 in a lump sum, for one of the largest single contributions to date. Their contribution gives them top honors among contributors to the Building Booster Fund for the month.

Fund collections for the month ending March 16 totalled $2,398.10. This permitted the International to make a payment of $2,400 on the mortgage, thus saving $7.50 a month interest. Over the life of the mortgage, this means a savings of $1,147.50 in interest. This brings the total interest savings to $15,783.30.

THUS FAR we have paid $31,800 on the mortgage from the Fund. More pledges and more payments will mean a faster reduction of the principle and a greater saving in interest.

What the public employees of the state of Utah have done can be duplicated by public employees in every state. It should be a matter of state pride to know that the organized public employees of your state have done their part to purchase a building that will belong to all.

The contribution of Utah State Employees Service, Salt Lake City, Local 1089 completed the picture for Utah. Local 1089 is not a large group. It has only 22 members, but their loyalty to the union should serve as an inspiration for others who have not yet made a 100 percent contribution. If all our locals would step up their campaigns we could retire the mortgage on the Public Employee Union Building in short order. This would make it possible for us to turn our funds to improving and expanding our service to our members.

FOUR OTHER locals qualified as various types of Fund Builders during this past month.

Bridgeport, Conn., Bridge and Maintenance Employees Local 182 qualified as an Advance Builder by contributing $100 for 50 bricks.

Illinois State Employees, Jacksonville, Local 38 purchased 21 bricks to honor their oldest member, Edith Scribner. One brick was purchased for each year of her membership.

Washington State Administrative Employees, Olympia, Local 1466 contributed $41.

Detroit Public Library Employees Local 1259 qualified as a Security Builder by donating $25 for 12½ bricks. •

CITATION: International Vice President Leon G. Hay presents a citation for a 100 percent membership contribution to the AFSCME Building Fund to Fulton County Employees Local 368. From left, Dorothy Cremin, recording secretary; Charlie Helen Baldwin, board member-at-large; Jewell Elliott, president; Dorothy Smith, sergeant-at-arms; Leon G. Hay; Myrtie Zack O'Shields, treasurer; Lusu Hall, board member-at-large; Nannie McMichael, vice president, and Carolyn Garrison, corresponding secretary.

N. Y. Council's March on Albany Was Standout Means of Dramatizing Program on Legislation

• Members of 45 New York state public employee locals from the tip of Long Island to the Niagara frontier, from Staten Island to the Canadian border, joined in a march on Albany in protest against the shocking wage and working conditions imposed on state employees.

While our locals and councils throughout the country were busy plugging the legislation that has been introduced in their behalf, the march on Albany was the most dramatic means used to express the legislative needs of public employees.

The march, organized by New York State Employees Council 50, was led by Bill Di Donna, his wife and 13 of their 15 children, all of whom carried placards demanding support for the union's program. Brother Di Donna is a member of New York State Department of Public Works Employees, Saratoga County, Local 1108. He is a highway laborer and is stationed at the eastern terminus of the Erie Canal in Schenectady.

THE DEMONSTRATION was in support of a three-point basic legislative program aimed at providing basic security and justice for state employees. The program demands a $950 across-the-board salary increase, state paid life insurance and equal pay for equal work.

Council President William Ruff pointed out that thousands of state workers have had no increase in take-home pay for years. The government's own statistics prove that New York state wages lag behind private industry by an average of $950 a year. With the cost of living constantly rising, state employees find it almost impossible to provide for their families.

This is the reason, he said, that the turnover among state employees is extremely high—as much as 50 percent in many state institutions. The state loses many capable and dedicated people because of inadequate wages.

In support of the union's across-the-board increase de-

MARCH: Stretching as far as the camera's eye reaches are more than 400 members of New York State Employees Council 50 going up the steps to the state capitol at Albany to press for their legislative program which is highlighted by a request of a $950 a year increase for all state employees. At the right is Council President William F. Russ.

mands, International Organizer Jean Couturier cited the U.S. Bureau of Labor Statistics' report that the average family needs about $4,400 a year to meet today's cost of living. The median salary for New York state employees, he noted, is about $3,400 a year.

He also noted that the loss of an employee and the training of a new one to replace him costs the state about $500. This money might more profitably be put to increasing salaries and thus encouraging valuable trained employees to remain in the service of the state, he said.

THE UNION'S demand for state paid life insurance amounting to $5.000 for each employee is based on the practice of the five states surrounding New York. Union spokesmen pointed out that insurance of this kind would cost the individual employee $260 a year, but the state could provide coverage, because of its group purchasing power, for $60 or $70 a year for each employee. The difference, in effect, would constitute a salary increase of $200 a year.

Union officials charged that the basic salary structure has become a mockery in present practice among state agencies. Employees promoted to higher positions sometimes actually suffer a loss in pay amounting to several hundreds of dollars. Many employees, as a result, actually refuse promotions. In many cases, newly appointed employees receive more pay than those appointed to the same position a year before. Because of regulations, new employees who entered state service since 1954 can never earn as much as employees hired before 1954. These employees, filling identical positions, doing identical work, must always work next to employees who are earning as much as $500 a year more.

State employees expressed their demands for justice in conferences with legislators held in Albany after the march. Council 50 is sponsoring a letter-writing campaign in support of bills introduced into the legislature to correct the abuses of which the union is complaining. ●

FILMING: Interest in the march of New York State Employees Council 50 on the state capital was so great that it was filmed. Council President William F. Russ is the second from the right in the foreground. In the center foreground bearing placards spelling out "My Daddy Wants a Raise" are 15 of the 17-member family of William DiDonna, Schenectady, maintenance worker employed by the state highway department at $2,990 a year.

THROUGHOUT the nation, AFSCME councils are more active on the state legislative front than ever before.

Council representatives are working against tremendous odds. The political atmosphere was poisoned by the announcement of the Teamsters—expelled from the AFL-CIO for unethical practices—of their intention to organize policemen. Enemies of organized labor were quick to seize upon this announcement as a pretext to introduce bills designed to cripple the functioning of AFSCME.

In addition to fighting off these anti-labor moves, the councils are pressing the passage of bills authorizing the organization of public employees and collective bargaining for them, and providing other benefits for them.

In at least two states, Tennessee and Arkansas, bills aimed at AFSCME failed to pass, thanks to the effectiveness of the legislative leg work of AFSCME representatives assisted by the organized labor movement.

The measure was killed in Tennessee, when the Senate voted 23 to 2 to table it. In Arkansas the legislature adjourned without acting on the bill. While the Arkansas proposal would not have prohibited the organization of public employees, it would have barred them from bargaining collectively and from striking.

The Tennessee measure was even more vicious, for it would have outlawed the organization of public employees. A similar measure has been introduced in North Carolina, its fate undetermined as *The Public Employee* went to press. The Indiana senate passed and sent to the house a bill to prohibit any union from organizing or attempting to organize any police department.

BUT the political skies are not overcast everywhere. In Wisconsin, Democrats and Republicans were vying to restore vacation cuts to state employees made in 1957. In the Republican-controlled state senate, a bill has been approved by a committee and reported to the floor. A similar Democrat-sponsored measure has passed the Democrat-controlled house and has been sent to the senate.

In New Jersey two bills passed by the state assembly would permit state, county, municipal and school district employees to collect cash compensation for up to six months of

(Continued on page 14)

accumulated sick leave when they retire.

In Ohio a retirement bill has been introduced which would relieve public employees of the obligation to pay $3 a year for administrative costs of the Public Employees Retirement System.

In Arkansas, Governor Faubus vetoed a bill which would have required labor unions to register with the state and make them liable for suit in state courts. Governor Faubus said that the measure was unnecessary, would be "discriminatory" and would "impair good relations between management and labor."

In Montana, an amendment to "right to work" legislation was passed by the house and sent to the senate. This amendment would prevent Montana legislatures from passing laws abridging the rights of unions to organize and be duly chosen by a majority as the sole representative of the entire group. The measure also would guarantee the right to bargain collectively and the right of a duly elected bargaining agent to represent everyone covered under the contract being negotiated.

Following is a report of progress on legislation state by state:

CONFERENCE: AFSCME officials confer with John E. Finnegan, Massachusetts director of personnel and standardization. Seated with Mr. Finnegan is Marjorie Mueller, AFSCME research director. Standing from left are John Bercury, International Organizer; Jeanne Dyer, regional office manager; Edward J. Doherty, president of Mass. Department of Public Works Employees Local 780, and Howard E. Doyle, state council legislative agent. Mrs. Mueller testified for a bill to extend social security to Massachusetts public employees.

California

Governor "Pat" Brown called for the passage of legislation to "strengthen the integrity of the collective bargaining process." His specific recommendations were to outlaw bribes to union officials, set up safeguards on union meetings and elections, provide for recalling officers for misconduct, prevent loans by unions to their officers, require the filing of financial statements by union officers and management consultants, and to govern the relationship between locals and their parent organizations.

Colorado

The Colorado Union of Public Employees was making a determined effort to obtain passage of a bill establishing the right of public employees to organize and bargain by issuing a bulletin explaining the measure in detail.

Connecticut

The following bills affecting public employees were introduced:

Permitting state employees to be covered by the State Labor Relations Act in regard to unfair labor practices, etc.

Recognizing public employees and their right to organize.

Allowing bona fide grievance procedure under collective bargaining contracts.

Salary increases for state employees in recognition of the cost of living rise.

Giving state employees political voice, the right to run for elective office and to participate in political rallies and caucuses.

Eliminating split shifts which force employees to do 11 hours' duty with only eight hours' pay.

Permitting clerical workers in many agencies to work a 35-hour week.

Idaho

The house rejected a bill which would have put all state and local government employees under the unemployment compensation program.

Maine

Hearings have been held on a bill to extend social security to public employees, which was introduced at the request of AFSCME.

Massachusetts

A bill was introduced to extend social security to state employees. Marjorie Mueller, AFSCME research director, testified for the measure.

A bill, supported by organized labor, would create a special panel of three Superior Court justices to sit on all labor dispute cases.

Michigan

Council 7 helped to defeat a House joint resolution that would have placed a measure concerning the State Civil Service Commission on a state-wide ballot. Had the resolution passed and the voters approved, the measure would have had the effect of ham-stringing the commission and halving its budget.

A bill was introduced to amend the state fair employment practices act to forbid refusal to hire a person because of age.

Minnesota

A bill to create a Division of Health Service for state employees, previously heard and discussed, was brought up again and referred to a subcommittee.

A bill providing state-paid group insurance for state employees was introduced.

The director of civil service recommended a four percent salary increase for each employee to meet the higher cost-of-living index figure recently announced in accordance with a previous agreement. An appropriation bill will be required to meet the cost of the increase.

Missouri

Bills affecting public employees that have been introduced include:

Extending unemployment compensation to public employees.

Increasing benefits under the workmen's compensation act and extending its coverage to state employees.

Enabling cities of 40,000 to 450,000 population to establish retirement systems.

Lightening the work load of employees of state mental institutions.

Providing credit in the state retirement system for employment with the Missouri State Employment Service while it was operated by the federal government.

Establishing a 40-hour week in the state highway department, with overtime to be paid to all maintenance men working more than nine hours a day or 44 hours a week.

Creating an incentive system for state employees.

Institutional Employees Local 410 of St. Louis and St. Louis County oppose a bill to dismiss from the job and bar forever from state employment any state employee who either exercises his privilege under the fifth amendment of the U. S. Constitution, or who fails to appear in any court of record in which he is scheduled to appear.

New Mexico

A bill for a personnel system and job classifications of state employees was passed by the senate and sent to the house. This would set up a series of examinations for job applicants, but hiring would not be totally dependent on scores made in the tests. The tests would provide a roster of possible employees. The measure also would prevent supervisors from dismissing more than 30 percent of their staffs in any one month. Similar bills failed to pass in 1955 and 1957.

Oklahoma

Introduced in the house were bills to authorize the governor to extend civil service to agencies now uncovered, and to enable the establishment of retirement systems in cities with populations of between 100,000 and 240,000.

Oregon

A bill to repeal the state's controversial 1953 anti-picketing law, passed by the senate, has been sent to the house where approval was regarded as virtually certain.

Another proposal would grant a $25 a month across-the-board salary increase to state employees.

Rejected by the senate labor and industry committee was a bill which would have extended unemployment compensation coverage to employees of non-profit charitable organizations, such as hospitals, churches and private schools.

Pennsylvania

A dozen bills were introduced and others were being prepared to implement the legislative program of Council 26. These include measures to provide civil service for all state employees, coverage of all public employees by the Pennsylvania Labor Relations Act, and a union dues checkoff for state employees.

South Carolina

A licensing measure aimed at curbing the Teamsters union, but actually affecting all unions, has been introduced. It would require licensing of any paid membership solicitor of any organization which requires dues or makes assessments on its members. Applicants for licenses would be required to file a detailed history of their organizations, plus their personal history for the past 10 years and present three personal references. Licensing boards would be empowered to refuse permits "for just reason" and "for the peace and good order of citizens of the state."

Texas

A proposal was introduced to define state policy to be that public employees' rights to employment should not be denied or abridged because of union membership or nonmembership. It also would require political subdivisions to bargain with public employees' organizations.

Utah

A bill was introduced to spell out union and collective bargaining rights of public employees, specifically permitting state and local employees to organize and negotiate.

Washington

A bill to create a merit system for county employees was killed in a house committee.

Wisconsin

Hearings were held on bills to give state employees two days off for each holiday worked, but one day off if the holiday falls on the employee's regular day off or on Saturday, and to pay them time and one half after 40 hours a week.

"Even though your wife has answered the 64 thousand dollar question, I hope you'll decide to stay on."

San Bernardino Member Runs for City Attorney

• Ralph Prince, a member of San Bernardino Employees Local 122 is currently waging a campaign for the office of city attorney of San Bernardino, Calif., which has a population of more than 83,000.

Brother Prince, formerly on the staff of the County Counsel, has been on the staff of the District Attorney's office for several years. He is a member of both the California and San Bernardino County Bar Associations.

Local 122 sponsored a workshop for county employees on February 12 at the Arrowhead Springs Hotel. Recommendations were formulated to be presented to the general membership for approval at a later date. In order to cover the variety of topics scheduled, six discussion groups were assigned specific topics.

Three morning workshops covered the hiring of a business agent, the development of an educational program and salary and fringe benefit problems. Harry Friedman, Welfare Department, led the first group with the assistance of Reva McKinney, Recorder's Office, and John Lawrence, County Counsel's Office. The education program discussion was led by Betty Eason, Welfare, with the assistance of Ruby Wicker, Public Works; Frank La Pinta, Welfare, and Doug Davis, former editor of the Union Employee. The third morning discussion group was directed by Robert Mitton, Building and Safety, and Ernest Hofheins, Welfare.

The afternoon sessions were devoted to discussion of proposed by-laws, especially those pertaining to elections, filling of vacancies on the executive committee, business procedures, the hiring of a business agent and policies relating to the newspaper. John Lawrence and Harry Schwarte, County Clerk's office, led these discussions. A group discussion of business procedures was led by Janet Martz, Assessor's office, Ruby Wicker and Frank La Pinta. A sixth discussion involved health and welfare problems. •

Corpus Christi Organized, Plans Wage Drive

• Plans are being made to negotiate for higher minimum wages for Corpus Christi, Texas, municipal employees, according to W. A. "Shorty" Rowe, AFSCME regional director.

Brother Rowe, speaking at charter installation ceremonies of newly-organized Corpus Christi Municipal Employees Local 1619, assured the 120 men attending the meeting that the local will work to better their conditions and that of their community.

Prefacing his wage-raising announcement, Brother Rowe said that a $1.02 minimum wage for city workers is "$40 a week short of the average paid in major industrial plants" in the area. In the light of this, he said, local union officials plan to seek a hearing before the City Council as soon as possible.

Oscar Reyna, district vice president of the Texas AFL-CIO, presented the charter to the new organization. Brother Rowe installed E. A. "Cowboy" Hemphill as president, O. L. Tingle as treasurer and an executive board composed of Joe Tijerino, F. R. Salazar, A. Lopez and Tony Flores.

CHARTER: Oscar Reyna, district vice president, Texas AFL-CIO, presents the charter to the new municipal employees local at Corpus Christi. From left are Brother Reyna; President E. A. Hemphill; A. Lopez; Regional Director W. A. Rowe; F. R. Salazar, and Joe Tijerino, members of the board, and J. D. Givens, International Organizer.

International Organizers J. D. Givens and Don McCullar are aiding in organizational work during the next weeks. •

Response to Offer of Low-Cost Homes and Lots in Florida Is Sizeable; Union Will Follow Through With Information

Within a week after the appearance of the March issue of the PUBLIC EMPLOYEE, more than 200 inquiries were received relative to an offer of low-cost homes and lots in Florida to AFSCME members. More are pouring in.

The offer was made to the International union by a reputable builder known to AFSCME. Located in the citrus belt along the St. Johns River near Sanford, Fla., the site would provide waterfront and regular lots, developed streets, sewers and recreational facilities, and is ideal for vacations or retirement. Although land values have soared in recent years, the land offered to AFSCME members would be sold at prices below the level the general public must pay.

Because of the response, the International will be able to follow through on this, and soon will provide further information to those who made inquiry. It is hoped that others will take advantage of the offer, for the greater the response, the more service AFSCME may be able to provide for our members in the project.

Other members who think they might be interested, without making any commitment whatsoever, should fill in the coupon below and mail it immediately to:

Housing
THE PUBLIC EMPLOYEE
815 Mount Vernon Place, N. W.
Washington 1, D. C.

Name ..... Local .....

Address .....

City ..... Zone ....., State .....

'How to Run Union Meeting' Available

All a chairman needs to know to conduct a successful meeting is contained in a revised and tastefully illustrated 64-page booklet on "How to Run a Union Meeting," which has been issued by the AFL-CIO Department of Education. Containing a wealth of knowledge on parliamentary law, the booklet may be obtained for 25 cents a copy from the Department of Publications, American Federation of State, County and Municipal Employees, 815 Mt. Vernon Place, N. W., Washington 1, D. C.

The booklet has been out of print for nearly two years and many of our members have been placing orders for it. They may now reorder with assurance of getting their copies promptly.

Hospital Local Pledges Fight For Patients

• "We are going to work for the patients at Western State Hospital (Staunton, Va.), going to fight for them and going to do everything in our power to make their surroundings better."

That's what Secretary E. L. Mitchell told a meeting of Western State Hospital Employees Local 539, which recently marked its first anniversary.

Typical of the constructive attitude of the local is its sponsorship of a recent in-person performance of television artists for the enjoyment of the patients. Local 539 also is pressing for improvement of the working conditions of the hospital employees.

Arrangements were being made to send a delegation of the local to Richmond to discuss better conditions with Gov. J. Lindsay Almond, Jr. Local 539's program includes proper recognition and a 40-hour week. The year-old union is working with the labor movement in Virginia, having sent a delegation to the recent convention of the State Federation of Labor and Industrial Union Council, AFL-CIO, at Roanoke. •

New Grievance Procedure

Michigan State Highway Department Also Recognizes Employees' Rights

ACHIEVEMENT: A five-step grievance procedure for Michigan State Highway Department employees is set forth in the document being signed by John C. Makie, department director. From the left, seated, are: Frederick E. Tripp, the department's director of administration; Paul Staley, chairman of Michigan Council 7's State Highway Department Policy Committee and president of Michigan State Capitol Employees Local 1034; Makie; Robert C. Grosvenor, Council director; standing, Charles J. Wilderspin, International organizer; Oliver Hatch, Policy Committee vice chairman and secretary-treasurer of Michigan State Highway Department Employees Local 1340, District 7; John P. Caldwell, International education director, and Lyman Rathbun, Policy Committee secretary.

• Several months of negotiations have gained the State Highway Department Policy Committee of Michigan Council 7 a five-step grievance procedure and full recognition of the right of the union to participate in it.

The steps involve the employee's immediate supervisor, the district supervisor or section chief, the division chief, the highway commissioner and finally the civil service commission.

The department's policy to deal though the union is set forth in a policy letter from Highway Commissioner John C. Makie to International Organizer Charles J. Wilderspin.

"The experience in private industry," Makie wrote, "has shown that many problems can be resolved very quickly by using a grievance procedure. Trained union stewards can play an effective part in assisting the employee to define his grievances and in making certain that his case is properly and fully presented to management.

"The total job of the Michigan State Highway Department can best be accomplished when the employees and management of the department are working closely together."

MAKIE said that this goal "can best be accomplished through such organization as your union's State Highway Department Policy Committee."

"I have previously stated," the highway commissioner said, "that every employee in the Michigan State Highway Department is free to join the union if he chooses to do so. I have always believed in organized labor and have supported it down through the years in a number of its programs." •

Somerville, Mass., Local Hits 100% Membership Goal

Somerville, Mass., Welfare Department Employees Local 274 has reached a goal of 100 percent membership. All 55 employees of the Somerville Welfare Department are now members of Local 274.

The local was chartered on March 29, 1945, with ten members. Since that time great progress has been won through hard work and persuasive bargaining.

Good will established by local members has paid off in many ways. Such advantages as three-week vacations with pay, salary increases, increase in allowable sick leave and an agreement with the Somerville Board of Public Welfare have been gained over the 14 years the local has been in existence.

Salvatore A. Biondo, president of Local 274, is particularly proud of the record of service made by the members of his organization, and of the good relations that exist between the union and the public.

Local 261 Cooks Don't Want to Be Janitors as Well

Employees of Michigan Veterans Facility Employees Local 261 are complaining about a new ruling at the institution that in effect makes the cooks janitors as well.

According to an old practice, the cooks closed shop 15 minutes ahead of the end of their shift in order to give them time to clean their kitchens. The new ruling requires cooks to work right up to quitting time and then clean up the kitchen on their own time without additional compensation. When complaints were made, the supervision told them, "A lot of people are out of work."

Local officials regard this as a thinly-veiled threat. Plans are being made to lodge a formal complaint.

Support the Building Booster Fund

AFSCME Shop Cards Now Available To Locals Which Will Display Them

The AFSCME Shop Card which is reproduced on the back cover of this issue of THE PUBLIC EMPLOYEE is available for all local unions which wish to display one in their offices, shops or meeting rooms.

The only charge will be for lettering the name of the local in the designated space—a matter of about $2.

The Shop Card was designed for our International Union by the AFL-CIO's Union Label and Service Trades Department, and is officially registered with that department.

Orders should be sent to the Publications Department, AFSCME, 815 Mt. Vernon Pl., N. W., Washington 1, D. C., with the full name of the local union, as it is to be imprinted on the card.

Michigan Council Wins Back Pay, Sick Leave for Members

● Michigan State Council 7 won resounding victories for two union members when the state Civil Service Commission handed down decisions which resulted in reinstatement with back pay amounting to $800 for one and clarification of sick pay regulations for the other.

Mrs. Florence Robinson, a member of Coldwater State Home and Training School Employees Local 1345, was dismissed last December on the charge that she had permitted one patient to abuse another physically while she was performing her duty as an attendant nurse. Hospital authorities admitted that later testimony from eye witnesses was in conflict with previous testimony, but the authorities preferred to rest their case on the transcripts of the earlier reports.

The Hearing Board found that the two witnesses introduced by the hospital were unable to present any facts that would prove that Mrs. Robinson deliberately encouraged or negligently allowed one patient to beat another, or even that she was aware of this happening. The board ordered her reinstated and granted her back pay amounting to $800. She was represented by Council 7 Organizer Holden Cook.

IN THE SECOND case, Mrs. Nellie Salmonson, through a representative, appealed the denial of her right to use sick leave for the care of a grandchild who was ill. She said that because of other illness in the family, she was the only person able to care for the grandchild. She also furnished financial assistance for the family.

Mrs. Salmonson applied for sick leave to cover 80 hours used for the care of her grandchild, but was told that this could not be done. She also used an annual leave day to cover the first day of the second pay period. Eight annual leave days were taken from her and the two remaining days used were counted as lost time, for which a deduction was made from her check.

In her appeal to the board, Mrs. Salmonson asked that her ten days be charged against sick leave, her annual leave days restored to her, and the deduction, for which she did not sign, returned.

The Hearing Board found that "an employee is entitled to use accumulated sick leave credit for necessary absence from work to care for any person to whom a legal or moral duty is owed for financial or physical care, as long as the employee is not abusing the privilege by assuming the primary duty of another relative, or assuming the total duty that might be properly shared by other relatives."

The board granted the employee's request and ordered the deducted pay returned.

Mrs. Salmonson is a member of Kalamazoo Hospital Local 652. ●

Response of Southern Workers To AFSCME Organizing Cited

• The AFSCME is "encouraged by the response of Southern workers," in spite of obstacles to organization of public employees set up by certain state and local governments.

This was affirmed by International President Arnold S. Zander in an article appearing in the February issue of *The Municipal South*.

The article, entitled "A Union Grows in Dixie," reviews the progress and aims of the public employees' union in its efforts to "advance the social, economic and general welfare of public employees" and to "cooperate in giving efficient government service, extend and uphold the principle of merit and fitness in public employment . . . and assist in the recruitment into public jobs of trained and spirited young people interested in embarking upon public service as a career."

In 1958 alone, President Zander reports, AFSCME membership increased by 20 percent in the South, despite restrictions enacted by some municipalities against the rights of public employees. He says that he is confident that such restrictions violate the U. S. Constitution.

Brother Zander predicts that agreements between public employees' organizations and public employers will increase as officials recognize the advantages to the community of collective bargaining and satisfied employees. •

"Coffee break!"

SYMBOLIC: Three members of the Sparta, Wis., State School Local 186 proudly display the cake with the AFSCME emblem that was one of the features of a party for the youngsters given by the local. The cake was baked and decorated by Chef Edward Krowkowski of Sparta. An orchestra was provided for dancing. Members who helped to organize the party included, from left, Mrs. Eugene Hiles, Mrs. Dorothy Kownick and Miss Margaret Marx.

Six Local 546 Members Rescue Boy from Cave-in

• Quick action by six members of Clark County, Wis., Highway Employees Local 546 was credited with saving the life of 10-year-old Griffith Lowe of Waukesha, a Milwaukee suburb, when he was trapped in a huge pile of sand and salt.

His rescuers were Earl Darling, Tony Hantke, John Apfel, Bobby Free, Paul Ahlers and John Bryan, president of the local.

Griffith and his nine-year-old brother Jeffrey, who were visiting their grandmother at Neillsville, Wis., dug a "cave" under a retaining wall and a pile of sand and salt near the county garage. When Griffith crawled into the hole, the cave collapsed, burying him completely.

Jeffrey ran for help and met Darling who immediately began digging for the boy. Continuing his search for additional rescuers, he found the five other members of the local in the garage and they responded to his pleas. •

AFL-CIO Offers Scholarships for Members' Children

The AFL-CIO is offering four-year merit scholarships for college to sons and daughters of AFL-CIO members who are now either second semester juniors or first semester seniors in high school.

Those who wish to qualify for a scholarship must arrange to take the Merit Scholarship examination at their local high schools.

If the local high school principal cannot make the examination available, arrangements can be made for students to take the examination individually. This may be done by writing to the National Merit Scholarship Corporation, 1580 Sherman Avenue, Evanston, Ill.

These examinations are the competition for the 1960 scholarships.

California Council 20 Honors Ed. F. Lingo

• A number of speakers lauded the successful efforts of Ed F. Lingo of the AFL-CIO California-Nevada regional office in organizing public employees in the Los Angeles area, at a dinner in his honor held recently by Southern California District Council 20.

The event was the Council's 1958 awards dinner, at which Lingo was presented with a Lord Elgin watch for his efforts which covered a two-year period.

During this time most of Lingo's efforts were devoted to assisting International Organizer Hugh MacColl in strengthening or setting up locals. Typical of the success of their endeavors has been the growth of Long Beach City and County Employees Local 112 from 35 to 400 members in the past year.

Brother MacColl lauded Lingo for his devotion to honest, effective and democratic trade unionism. Other speakers who had words of high praise for Lingo included International Vice President Otto Hahn, Regional Director Daniel J. Scannell, Council President Walter Murphy and Assistant AFL-CIO Regional Director Irwin DeShetler. •

AWARD: AFSCME Regional Director Daniel J. Scannell (left) congratulates Ed F. Lingo of the AFL-CIO regional office on receiving the award at the 1958 awards dinner of Southern California District Council 20 for his assistance in organizing public employees in the Los Angeles area. Council President Walter Murphy (second from the left) and Assistant AFL-CIO Regional Director Irwin DeShetler beam their approval. AFSCME Vice President Otto Hahn does not appear in the photo, but was one of the speakers.

Canal Zone Locals Appeal For Equality in Pay Scales

• A committee from Locals 900 and 907, AFSCME, AFL-CIO, representing employees of the Panama Canal Company, Canal Zone Government and civilian employees of the Canal Zone Armed Forces, urged that the new Canal Zone Single Wage Scale and Merit System be modified to bring wages closer to Civil Service scales and to give non-U. S. citizens more equal opportunity.

The appeal was made in a meeting with a committee from Washington headed by Rocco Siciliano, special assistant to President Eisenhower, and including Joseph E. Winslow, assistant to Mr. Siciliano; Warren Irons, executive director of the Civil Service Commission, and Robert H. Willey, deputy chief of staff of personnel of the Army.

The Siciliano committee visited the Canal Zone to investigate personnel issues of the area for the President. The union committee, headed by Bill Sinclair, International organizer; Harold Rerrie, chairman of Local 900, and Victor M. Franco, vice president of Local 907, endorsed the Canal Zone Merit System as a sound basis from which to start, but offered several suggestions for consideration.

NOTING that the Canal Zone Merit System must conform generally to policies, principles and standards established by or in accordance with the Civil Service Act, the locals recommended that all jobs under the new system should be paid for at rates equal to those provided under the Civil Service Act. The compensation of lower level jobs is at rates based on conditions prevailing in Panama. The superior standards of the Civil Service Act are used as the yardstick to qualify for jobs. This disparity was called inequitable by the committee.

It was noted that all U. S. Rate employees of the Canal Zone received a minimum wage increase of 10 percent to meet the rise in the cost of living, but Canal Zone Rate employees received no increase.

The union committee also urged that the difference in base pay between security positions and other Canal Zone Rate Positions be modified.

IT ALSO WAS suggested that in the conversion of jobs held by Canal Zone Rate employees of the Armed Forces, equal in every way except pay rates to U. S. Rate employees, to the Canal Zone Merit System, the jobs should be slotted into the equivalent grade and step level that they held under the old system.

The committee, while endorsing a proposed promotion policy, asked that full credit for experience and training acquired while in service or otherwise, for which there is no formal measure, should be given in addition to passing a qualifying examination. This, the union committee said, would give non-U. S. citizen employees a fairer opportunity for employment and traning than has been given them in the past. •

WHAT OUR UNION HAS ACCOMPLISHED

COLORADO

Pueblo Water Works Employees Local 1045, which obtained its first working agreement with the Pueblo Water Board last September, won as of Jan. 1 a 2.147 percent cost-of-living increase and $2,000 life insurance, with all but 50 cents of its monthly premium paid by the board. Some 90 percent of the water works employees belong to the local, which held a Christmas party for 300 persons which so impressed the board that it decided to pay for the event annually.

IOWA

Davenport, Iowa, Police Department Employees Local 1436 has won check-off of union dues, three weeks of paid vacation and a clothing allowance for its members. The wage committee of the Davenport Police Department and the Davenport City Council granted these demands after negotiations with union officials led by International Organizer C. "Tiny" Groeteke.

MINNESOTA

The non-instructional employees of Independent School District No. 697, Eveleth, Minnesota, voted 39 to 2 to name the American Federation of State, County and Municipal Employees their representative for collective bargaining purposes.

The consent election was conducted by the State Labor Conciliator on February 18, 1959.

NEW YORK

Troy, N. Y., City Employees Local 858 has succeeded in negotiating a blanket raise of $200 a year, retroactive to Jan. 1, 1959, for city employees. This increase represents a wage adjustment of .096c an hour. Officers of the local are Daniel A. De Deo, president and secretary; Joseph Riggione, vice president; William Malone, treasurer.

OHIO

Thanks to the work of **Barberton, Ohio, City Employees Local 265,** all school employees, non-teaching personnel as well as teachers, have received a 5 percent wage increase. The local is now working to secure fringe benefits, hospitalization, medical and life coverage for school system employees.

WASHINGTON

Pay raises ranging from $17.25 to $61.75 a month were won for Clark County road employees by **Clark County and Municipal Employees Local 307** in negotiations with county authorities. Some adjustments in wage classifications also were obtained.

WISCONSIN

The campaign to promote payroll deduction of union dues for members of **Wisconsin State Tax Commission Employees Local 91,** Milwaukee, has been successful. Officials of the Commission have agreed to the plan.

Local 91 also has launched a vigorous campaign to enroll new members.

Please include the name and number of your local.

Sign of the Times

Sign in a New York subway: ECIDUJERP—spelled backward that's PREJUDICE.

Either way, it doesn't make sense.

Union Playing Card Discount Offered

You may now obtain your own union playing cards at a 15 percent discount if you order in lots of 50 decks or more.

These playing cards with a picture of our International headquarters building on their backs are of the highest grade. Normally they would sell for $1.50 on trains and in hotels, but our regular price is $1 a deck. On orders of 50 or more decks, the price is reduced to 85 cents per deck.

On individual orders, please send cash. Local union officers may be billed if ordering in quantity for their locals.

CHECK: H. L. McCrorie, international organizer, presents a check for $500 to Mrs. Hazel Newman Shaw, widow of Henry Shaw who died in November, 1958. On the left is Mr. C. P. Shaw, brother of the deceased. Brother Shaw died after the Charlotte city council had ordered Charlotte, N. C., Area Law Enforcement Officers Local 1492 to disband. The life insurance benefit was paid despite the city's attempt to put the local union out of business. Legal action by the union is now pending in the North Carolina courts.

NEWS IN BRIEF *from all over*

INSTALLATION: President J. O. Moore of Atlanta, Ga., Labor Council, AFL-CIO, recently installed F. T. Farran as president of **Fulton County Courthouse Employees Local 315, Atlanta,** and other officers. Brother Farran succeeded Leon G. Hay, who is an International vice president. Other officers installed are: John W. Walton, secretary treasurer; O. C. Puckett, first vice president; Mrs. Grace Alvarez, second vice president; Mrs. Lillian Austin, third vice president, and William B. Kimble, sergeant at arms.

ELECTION: Balboa, Panama Canal Railroad and Federal Employees Local 900 conducted general elections in February. The following officers were elected for one year terms: Harold W. Rerrie, president; Saturnin Mauge, vice president; Peter Alexis, Atlantic region vice president; Philip Walker, Pacific region vice president; Reginald Callender, executive secretary; Sylvester Callender, treasurer; George Rowland, Atlantic region secretary; Mola Alphonse, Pacific region secretary; Charles Edwards, Richard Chilcott and Florence Thomas, local union trustees.

DRIVE: An organizing campaign of **Kenosha County, Wis., Courthouse Employees Local 990** is off to a flying start. June Baysinger was appointed treasurer at the January meeting, succeeding Karen Ricci. Other officers are Dominick Meo, president; Marjorie Chambers, vice president and Jean Carboni, secretary.

DINNER: Assemblyman Edwin C. Rohl and several members of the road and bridge committee of Pierce County Board joined some 150 members of **Pierce County, Wis., Highway Department Employees Local 556** and their wives at the annual family get-together of the local held at Ellsworth recently. Joe Magnuson showed colored slides taken during his recent trip to Europe. Mrs. Charles Meehans was in charge of cooking a chicken and ham dinner. Officers of the local are Milton Johnson, president; Edwin Larson, vice president, and Warner Hudson, secretary treasurer.

ELECTIONS: Maybury, Mich., T. B. Sanatorium Employees Local 209 has held elections. The following officers were elected: Herbert G. Smith, president; Frances Coppage, first vice president; John Hyrb, second vice president; Ivanona Bradfor, recording secretary; Howard Moyer, treasurer; William Clyde Wendover, sergeant at arms; Silas Harrison, trustee.

CONVALESCENT: AFSCME Education Director John P. Caldwell, who was stricken with an infection of the sac which contains the heart a month ago, is convalescing at Northwestern University Hospital in Minneapolis. He is expected to be recovered sufficiently to go home early in April. His voluminous mail has been helpful.

SUBSCRIPTION: Detroit Water Board Employees Local 207 is now subscribing to the Detroit Labor News, the official organ of the Wayne County AFL-CIO. President James Manning and the officers of the local said that they hope to use a column in the paper to help to stimulate enough pressure to get their members and other city employees a much-needed pay raise.

RE-ELECTION: George J. Levine, president of **State Insurance Fund Employees, New York City, Local 382,** has been re-elected employee representative to the Review Board which determines appeals from service ratings in the State Insurance Fund. The Fund is a carrier of workmen's compensation operated by the state of New York. Brother Levine, a principal compensation claims examiner, is active in community affairs.

No 'Yoicks' From 'Tiny'

International Organizer, C. "Tiny" Groeteke, does not ride to the hounds, wearing the traditional red coat and yelling, "Yoicks," when he goes fox hunting.

He has his trusty car.

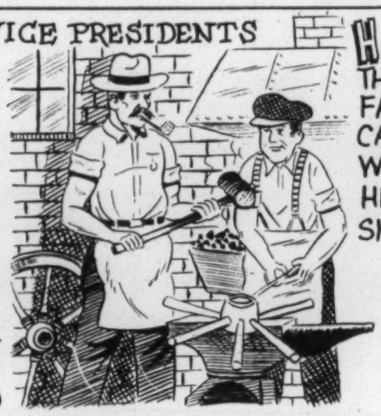
Driving near his home in a Springfield, Ill., suburb on a recent night, Tiny felt a sudden bump. "Gee," he thought, "I must have hit a dog." Eager to apply first aid, Brother Groeteke jumped from his car to discover that he had killed a large red fox, for which there is a bounty of $2.

Tiny cut off the animal's ears and gave them to his nine-year-old son Richard, who collected $2 from County Clerk Joe Thoman of Sangamon County (of which Springfield is the county seat). Richard added $8 to the bounty to make a $10 contribution to the March of Dimes.

Tally-ho, Tiny.

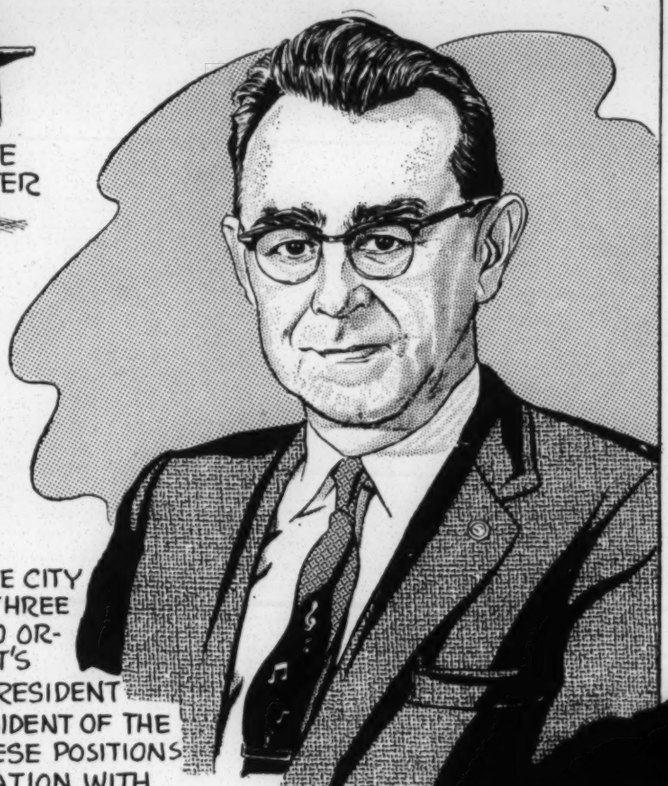
CHARTERED: Charles R. Smith (left) and James Leary (right), regional and assistant regional directors for the AFL-CIO in the Montana-Idaho area, present the AFSCME charter to the officers of Pocatello, Idaho, City Employees Local 1631. Examining their charter are Arthur W. Ricks, treasurer; C. J. Rainey, president, and Donald O. Davis, secretary. Smith told more than 30 members of the new local at the charter presentation that they are "pioneers," who would prompt other city employees in southeastern Idaho to follow their example.

AFSCME VICE PRESIDENTS



HENRY G. OSTHOLTHOFF JOINED A UNION AT THE AGE OF 17, THANKS TO THE URGING OF HIS FATHER, WHO OWNED AND OPERATED THE CARRIAGE AND WAGON FACTORY WHERE HE WAS FIRST EMPLOYED AS A BLACKSMITH'S HELPER. HENRY WORKED TEN HOURS A DAY, SIX DAYS A WEEK FOR A DOLLAR A DAY IN THOSE DAYS.

HE WAS BORN ON WASHINGTON'S BIRTHDAY, 1897, IN THE HEART OF CINCINNATI. IN 1917 YOUNG HENRY ENTERED THE ARMY AND SERVED IN THE MOTOR TRANSPORT CORPS. HIS EXPERIENCE THERE LED HIM TO BECOME AN AUTOMECHANIC, A TRADE WHICH HE HAS FOLLOWED EVER SINCE.



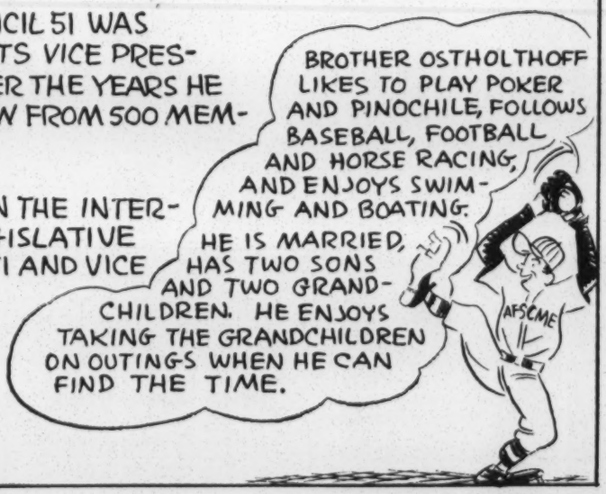
HENRY G. OSTHOLTHOFF

IN 1934 BROTHER OSTHOLTHOFF BEGAN WORK FOR THE CITY OF CINCINNATI AS AN AUTOMOTIVE REPAIRMAN. THREE YEARS LATER HE WAS AMONG THE EMPLOYEES WHO ORGANIZED AND AFFILIATED WITH THE MACHINIST'S UNION. HE BECAME ACTIVE AND WAS ELECTED PRESIDENT OF HIS GARAGE LOCAL. LATER HE BECAME PRESIDENT OF THE MACHINISTS' DISTRICT COUNCIL. HE HELD THESE POSITIONS UNTIL 1943, WHEN THE LOCAL AFTER CONSULTATION WITH THE IAM DECIDED THAT AFFILIATION WITH AFSCME WOULD SERVE THEIR INTERESTS.

THEY RECEIVED A CHARTER AS MUNICIPAL GARAGE AND SAFETY LANE EMPLOYEES LOCAL 190. BROTHER OSTHOLTHOFF WAS ELECTED PRESIDENT OF THE LOCAL AND HAS SERVED IN VARIOUS OFFICES EVER SINCE.

WHEN, IN 1945, DISTRICT COUNCIL 51 WAS CHARTERED, HE SERVED AS ITS VICE PRESIDENT AND SECRETARY. OVER THE YEARS HE HAS WATCHED THE COUNCIL GROW FROM 500 MEMBERS TO 4,000.

HE HAS SERVED FOUR TWO-YEAR TERMS ON THE INTERNATIONAL BOARD, IS PRESIDENT OF OHIO LEGISLATIVE COUNCIL 8, SECRETARY OF DISTRICT COUNCIL 51 AND VICE PRESIDENT OF LOCAL 190.



MARIO DEMARCO

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We Are

ORGANIZED

Forestville City and County

Employees Local 2500

American Federation of

State, County and Municipal Employees

AFL-CIO

the Union for Publ[illegible] [illegible]nployees

AFFILIATED WITH THE UNION LABEL & SERVIC[illegible] [illegible]PT., AFL-CIO

Printed on Union Made [illegible]

Like to have a union shop card like this for your local? Details on page 18.

'Fraternal' Ties to AFL-CIO

Teamster 'Raids' In State Charged By Employe Union

By ELLIOTT MARANISS

The leader of an AFL-CIO union of public employes charged in Madison today that several AFL-CIO central labor bodies are giving tacit support to extensive raiding operations by the Teamsters against his union.

This explosive charge was made by Robert J. Oberbeck, executive director of the Wisconsin Council of County and Municipal Employes, AFL-CIO. The Council with offices in Madison, is an affiliate of the American Federation of State, County and Municipal Employes.

Oberbeck said his union had lost locals to the Teamsters in Green Bay, Oshkosh and Manitowoc.

"They are attempting to raid us in Superior, Wausau, Fond du Lac and Eau Claire," he added.

In several of these cities, Oberbeck said, the Teamsters are being aided by the continuing relationships with AFL-CIO central labor bodies.

Robert J. Oberbeck

Teamster locals in many Wisconsin cities, he said, are still permitted to send representatives to meetings of AFL-CIO central labor bodies as "fraternal" or "social" delegates.

This arrangement, he added, is in quiet defiance of a national AFL-CIO directive that its affiliates sever all ties with the Teamsters Union, which has been ex-

(Continued on Page 10, Col. 1)

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'Fraternal' Ties to AFL-CIO

Teamster 'Raids' In State Charged By Employe Union

(Continued from Page 1)

pelled from the AFL-CIO on charges of corrupt leadership.

Emmet E. Terry, president of Teamsters Joint Council No. 39, with headquarters in Milwaukee, denied that his union is "raiding" locals of public employees.

He said that in several Wisconsin cities, public employes who had formerly belonged to the AFL-CIO union, had asked to be chartered by the Teamsters because their former union "wasn't doing a thing for them."

"We're not particularly anxious to organize public employes, especially if they belong to unions which are doing an effective job," Terry said.

In other cities, such as Wausau and Fond du Lac, Terry said, the AFL-CIO union did not appear on the scene until after the Teamsters started a drive to sign up unorganized workers.

"Any time any workers come to us and ask to be organized we will do it," Terry asserted. "That's not raiding. That's just good trade unionism."

✦ ✦ ✦

Oberbeck's public airing of the "fraternal" relationship between some AFL-CIO central bodies and the Teamsters seems certain to kick up a storm.

He said he was reluctant to make a public issue of this relationship, but that he was left with "no choice."

"Our union is suffering because of this," he said. "In many cities in Wisconsin the Teamsters still have an important voice in the center labor bodies. They have managed to enlist the support of some of these bodies in their operations against us."

In other places, he added, the Teamsters have "neutralized" the support which the central labor bodies "might have given to our own organizing or holding operations."

✦ ✦ ✦

Oberbeck called the situation "intolerable." He said that a "disgraceful situation" in Wausau, where the Teamsters reportedly enlisted the active support of the president and secretary-treasurer of the AFL-CIO central labor body against his union was "the last straw."

Oberbeck said the "fraternal" or "social" delegate set-up was devised because of "fear of the power of the Teamsters", particularly by building trades unions of the AFL-CIO.

Another hold the Teamsters have over the central labor bodies, he continued, is the money they have invested in labor temple associations. In some cases, he said, is was Teamster money which swung the financing for the construction of new temples.

In several cities, such as Kenosha, Wausau, Fond du Lac, Oshkosh, Superior and Green Bay, he said, the Teamsters still have their offices in the central labor temple.

✦ ✦ ✦

Oberbeck said in Superior his AFL-CIO union some time ago had become the bargaining agent for two locals of city employes which at one time had been part of the Teamsters. He said the members had petitioned to become part of the AFL-CIO, and

ing his appointment, but he did put in a phone call to the president of the Wausau federation urging him to support Oberbeck's union.

When Oberbeck appeared at the meeting he found a Teamster "social delegate" in attendance. Oberbeck was distressed with this but nevertheless made his appeal for help. After some discussion, the assembled delegates voted their official support to the organizing drive of Oberbeck's union.

At this point, the Teamster business agent walked out of the meeting "in a huff."

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When the meeting ended, Oberbeck was besieged by several delegates, who berated him for pushing his appeal to the point where it caused the rift with the Teamsters.

They were alarmed that the Teamsters would now withdraw a pledge of $21,000 toward the building of a new temple for the federation in Wausau.

Proceeding on the support voted at the meeting, Oberbeck sent a letter to all the municipal workers in Wausau, informing them of that action.

Some time later these same employes received a second mailing. This was from the Teamsters, and it contradicted Oberbeck's assertion that the central labor body had given support to the county and municipal workers' union.

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What particularly alarmed Oberbeck about this letter was the fact that it was signed not only by Teamster officials but also by the president and secretary-treasurer of the AFL-CIO central labor body in Wausau, both of whom were present when that body voted its support to Oberbeck's union.

Oberbeck said the help of all the AFL-CIO unions in the Wausau area was desperately needed by the County and Municipal Workers.

"Since we started organizing there, some 16 Wausau city employes, many with long seniority, had been fired," he said.

Oberbeck added that his union had filed protests with the Wisconsin Employment Relations Board and with the mayor of Wausau. So far, he said, the mayor has refused to transmit the union's protest to the City Council.

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Terry, however, offered a somewhat different version of the Wausau affair.

He said that Local 446 of the General Drivers and Helpers Union of the Teamsters, started the drive to organize those employes on April 15, 1959, "weeks before any other labor organization."

He said the only previous effort by the AFL-CIO union was "about two years ago, when it held a meeting attended by about 10 people."

After this meeting, Terry said, the AFL-CIO union left Wausau and "did not return until two years later, when these employes became interested in joining Local 446."

✦ ✦ ✦

He said that by May 25, 1959,

Kenosha, Wausau, Fond du Lac, Oshkosh, Superior and Green Bay, he said, the Teamsters still have their offices in the central labor temple.

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Oberbeck said in Superior his AFL-CIO union some time ago had become the bargaining agent for two locals of city employes which at one time had been part of the Teamsters. He said the members had petitioned to become part of the AFL-CIO, and had been accepted and chartered.

The Teamsters, he said, then started a drive to get the locals back. Oberbeck said he appeared before the central labor body in Superior in an effort to enlist its support in holding the locals.

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"What they did," he continued, "was to call in the business agent of the Teamsters Union, who was a 'social' delegate to the central body, and ask him to 'do something' about the situation,

The central labor body officers did nothing further in behalf of the AFL-CIO union, he said. Even worse, Oberbeck added, they allowed the Teamsters Union to continue as a "social" member while it stepped up its efforts to regain the two locals from the AFL-CIO union.

The comment by Terry of the Teamsters on this report was: "Who's raiding who?"

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"The Wausau story, however," Oberbeck added, "is even more sordid."

He summarized the Wausau situation as follows:

In January, of this year the County and Municipal Employes Union started a drive to organize employes of the Board of Public Works in Wausau. The union at one time had a local there but it had been disbanded. In May, the Teamsters also started a drive to organize the same workers.

Oberbeck made plans to appear at a meeting of the Wausau Central Labor Federation, AFL-CIO, to ask for its help. At the same time he appealed for help to the office of Charles Heymanns, regional director of the AFL-CIO, with offices in Milwaukee.

Heymanns promised to come to Wausau to appear at the meeting with Oberbeck. Other business prevented Heymanns from keep-

any other labor organization."

He said the only previous effort by the AFL-CIO union was "about two years ago, when it held a meeting attended by about 10 people."

After this meeting, Terry said, the AFL-CIO union left Wausau and "did not return until two years later, when these employes became interested in joining Local 446."

✦ ✦ ✦

He said that by May 25, 1959, Local 446 had more than 100 signed applications from the workers, who included drivers and helpers of garbage trucks, and sanitation, sewerage, street, and park employes.

He said Local 446 had asked the Wisconsin Employment Relations Board to conduct a "courtesy" election, by secret ballot among the public employes, that the AFL-CIO union was also invited to appear on the ballot, but that it refused to do.

This election, incidentally, has not yet been held, because permission has not been granted by the Wausau City Council.

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In Green Bay, Oberbeck charged his union lost an entire local of school employes to the Teamsters because of "intimidation'" by a Teamsters official who was also a member of the Green Bay school board.

"This man," Oberbeck asserted, "called in the leaders of the union and told them tthe school board would not negotiate with them unless they pulled out of our union.

"The next thing we knew they had been chartered by the Teamsters."

In Green Bay, he said, Teamsters are "fraternal delegates" to the AFL-CIO central labor body.

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Terry, on the other hand, denied that the Teamsters got the Green Bay local through "intimidation."

"It was simply a case of the old union disintegrating because nothing was done for the members", he said.

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Oberbeck said the president of his parent union, Arnold Zander, of Washington, has protested to George Meany, president of the AFL-CIO, about the actions of the central labor bodies in continuing relations with the Teamsters.

A directive of the AFL-CIO to all central bodies, issued in 1957, ordered them to break off dealings with the Teamsters. Implementation of this directive, however, has proceeded even more slowly than an earlier directive ordering the former separate bodies of the AFL and the CIO to merge into single units.

In Madison, the Madison Federation of Labor, has never completely severed its ties with the Teamsters. By official resolution of the Federation, the Teamsters have been "welcomed as fraternal delegates" to Federation meetings.

Fraternal delegates pay no dues and have no vote. They may, however, speak on the floor and take part in the deliberations. In Madison, the new Labor Temple was built with no financial help from the Teamsters.

In justification of their position, the leaders of many Wisconsin central labor bodies assert that Wisconsin Teamsters are different from thosein other states.

The Union for Public Employees

E. V. a

As amended in Convention
Denver, Colorado
April 27-May 1, 1964

Constitution

of the American Federation of STATE, COUNTY and MUNICIPAL EMPLOYEES

Affiliated with

THE AMERICAN FEDERATION OF LABOR and CONGRESS OF INDUSTRIAL ORGANIZATIONS

Wisconsin Administrative Code

RULES OF PERSONNEL BOARD

1964

CIVIL SERVICE RULES ARE THE STATE EMPLOYEES' WORKING AGREEMENT

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PERS 1

Pers 1.01 DEFINITIONS. In these rules:

(1) "Appointing Officer" means the officer, commission, board or body, having the power of appointment, or election to, or removal from, subordinate positions in any office, department, commission, board or institution. An appointing officer may delegate the power of appointment to subordinate officers providing such delegated authority is in writing and a copy is filed with the Director of Personnel.

(2) "Board" means the State Personnel Board.

(3) "Bureau" means Bureau of Personnel.

(4) "Department" means any officer whose office is created by constitution or statute, or any agency so created, except legislative and judicial officers and agencies and offices and agencies created within departments as here defined.

(5) "Director" means Director of Personnel.

(6) "Employe" means any person holding a subordinate position subject to appointment, removal, promotion or reduction by any appointing officer.

PERS 2

Pers 2.01 DEFINITION.

The listing of classes in effect as identified by class titles in the bureau's *Classification and Compensation Plan For Positions In The Classified Service* and as described in class specifications shall constitute the classification plan for all positions in the classified service. For the purpose of these rules, class and classification are synonymous.

Pers 2.02 REVISION OF THE CLASSIFICATION PLAN.

The Director shall submit to the Board requests for amendments to or revision of the classification plan to meet the needs of the various state agencies. These shall include the creation of new classes, abolishment of existing classes, and changes in concept of classes, which result in changes in allocation patterns, changes in the allocation of positions or changes in the kind or level of qualifications. The Board may approve such requests after taking into consideration the recommendations of the Director. Such action shall be recorded in the minutes of the Board.

Pers 2.03 CLASS TITLES.

(1) The title of a class shall be the official title of every position allocated to that class and shall be used in all reports, payrolls, and in all estimates requesting the appropriation of money for personal services.

(2) Any title, other than the official title, desired by the appointing officer may be used to designate any position for purposes of internal administration and in other connections not involving the personnel processes covered by the law or these rules.

(3) When the unique character and qualifications of one or more positions in a class requires the use of subtitles, all personnel transactions shall be based on the classification *and* subtitle. Recruitment, examination and use of the employment list will be set up for the class and subtitle. The payroll title of appointees, and subsequent personnel actions such as transfer or layoff will also be based on class and subtitle.

Pers 2.04 CLASS SPECIFICATIONS.

(1) Definition. Class specifications shall consist of three major parts: Title; Position standards; and Qualification standards.

(a) Class titles shall be used as described in Pers. 2.03.

(b) Position standards shall include any or all of the following: subtitles, areas of specialization, definition, nature, character and examples of work performed; allocation patterns, standards and factors; and such other information to facilitate allocation of positions to the appropriate classification. These position standards are descriptive and not restrictive, and they shall not be construed to limit or modify the power of the appointing officer to assign tasks or direct or control the work of employes under his supervision. The use of particular examples shall not be held to exclude others not mentioned that are of a similar kind or level, and are not to imply that all those mentioned must be performed by all persons whose positions are so classified.

(c) Qualifications standards shall contain a description of the desirable knowledges, skills, abilities, educational requirements, training requirements, experience requirements or any such other credentials which a person should possess to insure reasonable prospects of success in the position, area of specialization, subtitle, or class as described in the position standards. These standards shall be considered basic guidelines and shall not preclude more definitive nor more general statements in recruitment announcements, providing that the kind and level of qualifications are not decreased.

(2) Force and Effect of Class Specifications and Their Various Parts.

(a) The position standards part of the specifications shall be the basic authority for the allocation of positions to a class and the qualification standards shall be the source of authority for all phases of the selection process for any class or position therein.

(b) Qualifications commonly required of incumbents of positions of different classes, such as acceptable physical condition, freedom from disabling defects, United States citizenship, and residence within the state of Wisconsin except as otherwise provided in the law or rules, honesty, sobriety, and industry, shall be implied as qualification requirements for all classes even though they are not specifically mentioned in the specifications.

PERS 3

Pers 3.01 ESTABLISHING, ABOLISHING OR DISCONTINUING A POSITION.

(1) Establishing a Position.

(a) If an appointing officer has made budgetary provisions for a new position in his department and desires to fill the position, he shall make formal request, describe the duties and responsibilities of the position and provide other pertinent information requested by the director.

(b) The director shall then allocate the position to the appropriate class and enter it on the departmental establishment list.

(2) Abolishing Or Discontinuing A Position.

(a) The director shall remove a position from the department's establishment list upon recommendation of the appointing officer.

(b) Any position vacant for one year shall be dropped from the departmental establishment list unless the appointing officer gives reasons acceptable to the director for retaining it.

Pers 3.02 ALLOCATION, REALLOCATION; DEFINITIONS.

(1) Allocation. The initial assignment of a position to the appropriate class in the classification plan by the director as provided in subsection 16.105(1m), Wis. Stats.

(2) Reallocation. The assignment of a position to a different class in the classification plan by the director as provided in subsection 16.105 (1m), Wis. Stats. based upon:

(a) Changes in the duties and responsibilities of a position. (Referred to as a *reclassification*).

(b) A change in concept of the class or series.

(c) The creation of new classes.

(d) Abolishment of existing classes.

(e) The reappraisal of the level of the class in terms of the total service.

(f) Selected classifications where the levels are differentiated by attainment of specified training and experience.

(g) The reassignment of a class to a different salary range.

(h) Any other circumstances covered by subsection 16.105 (1m), Wis. Stats.

Pers 3.03 REALLOCATION OF POSITIONS.

(1) Appointing officers shall give notice in writing to the director of material changes of a permanent nature in the duties and responsibilities of positions. If the facts warrant, the director shall reclassify or otherwise reallocate the position. Normally, filled positions will not be reclassified until the incumbents have carried the responsibilities for a period of at least 6 months.

(2) A competitive promotional examination may be required to fill a position reclassified or otherwise reallocated to a higher level when the director determines that the position should have originally been filled by promotion.

(3) The director may initiate classification surveys as may be required to meet the needs of the service. Positions covered by such surveys shall be reallocated by the director to the appropriate classification whenever he finds such action warranted.

(4) A competitive examination is required to fill certain reallocated positions. See section Pers. 7.03.

(5) Whenever the director determines that positions are overclassified, appropriate action shall be taken as follows:

(a) If the incumbent of such position does not have permanent status in the position, the position shall be immediately reallocated to the proper classification.

(b) If the incumbent has permanent status in the position and his present salary is the same or less than the maximum of the salary range for the proper classification, the position shall immediately be reallocated to such proper classification.

(c) If the incumbent has permanent status in the position and his present salary is above the maximum of the salary range for the proper classification, the reallocation of his position shall be held in abeyance for one calendar year and no salary increases shall be given the incumbent during this period. Upon the expiration of the one year period the position shall be reallocated to the proper classification and the incumbent's salary adjusted to the maximum of the salary range for such proper classification.

(d) In any such action, every effort shall be made by the appointing officer and the bureau to transfer the employe to a position for which he is qualified. Any such employe, with approval of the director, shall be placed on the appropriate employment lists.

Pers 3.04 REALLOCATION APPEALS.

Whenever a position is reclassified or otherwise reallocated, the appointing officer and the incumbent shall be notified in writing. If the employe or appointing officer believes the classification action to be incorrect on the basis that the class specification on which the action was based does not adequately reflect the duties and responsibilities of the position, he shall, upon written request, be entitled to an appeal from such action provided that a notice of such appeal is received by the board not more than 10 calendar days after receipt of notice of such action. The hearing shall be conducted pursuant to subsection 16.05 (1), Wis. Stats. within the time limitations consistent with section Pers 23.02.

PERS 4

Pers 4.01 DEFINITION.

The compensation plan in effect as identified in the *Classification and Compensation Plan For Positions In The Classified Service* published by the bureau composed of the various salary schedules, rates and ranges as approved pursuant to subsection 16.105 (4), Wis. Stats. together with amendments and revisions shall constitute the official compensation plan for all positions in the classified service.

Pers 4.02 AMENDMENTS TO THE COMPENSATION PLAN

(1) Creation of a new class in the classification plan provided in section Pers 2.02 and the subsequent assignment of this class to an existing salary schedule and range shall, before becoming effective, be approved by the board after taking into consideration the recommendation of the director.

(2) For the reassignment of a class to a different salary range see subsection 16.105 (4), Wis. Stats.

PERS 5

Pers 5.01 BEGINNING SALARY.

(1) Initial Rate To Be Paid.

(a) The lowest or initial rate in the salary range shall be the rate payable to any person on first appointment to a position in the class except as otherwise provided.

(b) When economic and employment conditions make it exceedingly difficult to fill vacancies in a given class at the initial rate, the board may approve a higher rate in the range after taking into consideration the recommendation of the director.

(c) Where unique special professional training and experience are required to fill a specified vacancy, the board after taking into consideration the recommendation of the director at the request of the employing department may approve a rate above the minimum for recruiting and hiring.

(2) For salary on promotion, reclassification, transfer, reinstatement, demotion and for trainees and Intern Classes see chapters Pers 14, 15, 16, 17, and 20 respectively.

Pers 5.02 FULL-TIME AND PART-TIME SERVICE

Rates prescribed in the compensation plan for permanent and seasonal positions are the rates authorized for full-time employment. When employment regularly equals or exceeds half-time on a daily, weekly or monthly basis, the proportionate part of the rate shall be paid. When employment is less than half-time on a daily, weekly or monthly basis the rate paid shall be according to the salary schedule for limited term employment.

Pers 5.03 SALARY INCREASES.

(1) A probationary increase of one step shall be granted pursuant to subsection 16.105 (2)(d), Wis. Stats. effective at the beginning of the pay period following completion of the first 6 months of the probationary period.

(2) Merit increases, see subsections 16.105 (2)(c) and (e), 16.25 and 20.931, Wis. Stats.

(a) Scope. In accordance with subsection 16.105 (2)-(c) 2 Wis. Stats., the Bureau shall develop a guide to assist departments in the equitable distribution of merit increases.

(b) Policy. To establish a system of employe evaluation through performance standards to aid in assuring that merit increases should be based on meritorious service and provide justification to the employe for either the award or denial of merit increases.

(c) Application. Each department shall adopt a plan for the distribution of merit increases to accomplish the legislative intent and the policy expressed in this rule. The plan thus adopted may be the guide drawn up by the Bureau or it may be one drafted by the given department to fit its own needs and circumstances.

(d) Reporting. Appointing officers shall report to the Director their plan for granting merit increases, including method and procedures, and furnish any supplementary forms or related information as the Director may require for his evaluation and presentation to the Board on the operation of the state's merit increase program.

(3) Salary increases or decreases resulting from position reallocation or reclassification shall normally be effective at the beginning of the pay period following completion of the transaction.

(4) Except for action in accordance with subsection 16.24 (1), Wis. Stats., or to correct an error, no salary increases or decreases shall be retroactive.

(5) When a position is reallocated pursuant to Pers. 3.02 (2)(a) and (f) to a classification in a salary range with a higher maximum, the incumbent who holds that position and is authorized to perform the duties of the class to which the position is reallocated, shall receive a

salary increase to the minimum of the new class or a one step increase, whichever is greater.

(6) Where applicable, salary adjustments resulting from personnel transactions that have the same effective date shall be made and occur in the following order:

1 reallocation
2 reclassification
3 probationary increase
4 promotional increase
5 merit increase

Pers 5.04 BASIC SALARY.

The term basic salary means the salary rate excluding any overtime or other additional compensation.

Pers 5.05 INJURY WHILE ON HAZARDOUS DUTY.

Certain employes injured while performing hazardous duties as defined in section 16.31, Wis. Stats., and who are unable to work may continue to receive their full monthly salary for not to exceed 3 months. Claim shall be made by the employe or his representative to his appointing officer on forms provided by the bureau. Within 10 calendar days after receipt of the claim the appointing officer shall notify the employe and the director in writing of his decision to authorize or deny the claim. The employe may appeal the decision of the appointing officer to the board within 10 calendar days after receipt of the appointing officer's decision.

Pers 5.06 EFFECT OF WORKMEN'S COMPENSATION.

(1) During the period an employe is absent from work due to injury from state employment and is awaiting a determination under chapter 102, Wis. Stats., the employe personally or through his representative may elect to:

(a) Use sick leave credits to cover loss of earnings, or await payment of workmen's compensation, *or*

(b) Use vacation credits to cover loss of earnings until eligibility for workmen's compensation is determined.

(2) The employe shall give written notification to the employing department of the elected manner of payment for such absence before the end of the pay period in which the absence occurs.

(3) In instances where vacation credits have been used to cover an absence which is later found compensable, the appointing officer shall, if requested by the employe, provide leave without pay on a day for day basis, with such leave to be taken in accordance with subsection Pers 18.02 (6).

(4) If the employe elects to await workmen's compensation and the claim is later found non-compensable, sick leave and vacation credits may be used for the absence.

Pers 5.07 MAINTENANCE ALLOWANCE.

Where full or part maintenance such as laundry, meals, lodging or quarters is furnished for the employe or the employe and his family, the employe shall be charged for the value of the allowance as established by the bureau based upon recommendation made by the employing departments. Any exception to this policy shall require the approval of the director. The bureau shall review these rates as required.

Pers 5.08 COMPENSATION FROM OTHER SOURCES.

Regardless of the source of funds, all compensation for services in a given position shall be combined to the end that the total compensation of any employe for any period shall not exceed the amount payable at the rate prescribed for the class of position concerned.

Pers 5.09 OVERTIME.

(1) Definition Of Overtime. Time that an employe is compensated for working in the capacity of his own classification in the same department in excess of required working hours pursuant to subsection 16.275 (7), Wis. Stats. and these rules.

(2) Policy On Overtime.

(a) It is the policy of the state to reduce to a minimum the necessity for overtime work.

(b) Compensation for overtime work shall normally be by compensatory time off.

(c) Overtime shall be compensated as provided in the state's compensation plan.

(d) Overtime work that is to be paid for in cash or by compensatory time off shall normally be on an hour for hour basis.

(e) All overtime payments shall be separately recorded on the payroll.

(f) Where compensatory time off is granted for overtime work it shall be taken within 6 calendar months after it has been earned.

(g) Any additional salary shall cease to be payable without the right of appeal whenever the employe's scheduled hours of work are reduced to the normal level.

(h) All overtime work for either compensatory time off or for cash payment must be authorized by the appointing officer. For classes in salary Schedule 1, range 12, and above, and classes in Schedules 4 and 5, approval of the Director is also required for overtime that is compensated by cash payment.

Pers 5.10 ADDITIONAL EMPLOYMENT.

(1) Definition. Additional employment is of 2 types:

(a) Employment in the same employing unit but in a different class of position than that of the employe's regular position.

(b) Employment in a different employing unit of the same department or in a different department in the same or different class of position than that of the employe's regular position.

(2) Policy on Additional Employment. The policy on additional employment shall be consistent, where applicable, with that expressed on overtime.

(3) Processing. Additional employment shall be processed as limited term employment and subject to the provisions of chapter Pers 10.

Pers 5.11 DEVIATIONS.

(1) Definition. Where the conditions of employment cannot be fulfilled by adhering to the standard work week provided in subsection 16.275 (7), Wis. Stats.

(2) Compensation For Deviation Work Weeks. Compensation for such work weeks shall be as provided for in the state's compensation plan.

(3) Approval Required. Requests for deviation work weeks shall be submitted by the appointing officer to the Department of Administration, attn. Bureau of Personnel, for the director's prior approval. Such requests shall define the extent and duration of the deviation, and contain a recommendation as to pay for the additional time required, and personnel by name and classification who will be included. Before submitting such requests the appointing officer shall make the necessary budgetary provisions.

(4) Reporting and Recording Pay For Deviation Work Weeks.

(a) Approval is for the length of the period specified and if on continuous basis shall coincide with the fiscal year.

(b) Any additional pay authorized for deviation work weeks shall be separately recorded on the payroll.

(c) Any additional salary shall cease to be payable without the right of appeal whenever the employe's scheduled hours of work are reduced to the standard basis of employment.

Pers 5.12 SUPERVISORY PAY; RESPONSIBILITY PAY

Supervisory pay as provided in the teacher's salary schedule and responsibility pay as provided in the physician's salary schedule shall be separately recorded by the director and by the employing department, and shall cease to be payable, without the right of appeal whenever the supervisory duties or program responsibilities cease.

Pers 5.13 PAY FOR JURY DUTY.

See subsection 16.275 (5), Wis. Stats.

Pers 5.14 AUDIT OF RECORDS.

As provided in subsection 16.05 (3) and section 16.26, Wis. Stats. the director shall have access to all records kept by departments relating to personnel and employment processes.

Pers 5.15 EMPLOYMENT INTERVIEW TRAVEL EXPENSES.

As provided by subsection 20.940 (3), Wis. Stats. an applicant who is eligible for selection for employment may be reimbursed for all or part of his actual and necessary travel expenses incurred in connection with an employment interview by the employing department provided:

(1) The position is of a professional or technical nature, and

(2) A critical shortage exists of persons eligible for selection, and

(3) Prior authorization for such reimbursement has been obtained from the director.

Pers 5.16 TOTAL REMUNERATION.

The rates of pay prescribed shall be deemed to include pay in every form EXCEPT: approved overtime; lawful reimbursement for necessary expenses authorized and incurred incident to the employment; special equipment; clothing; or services considered necessary for performance of the job.

PERS 6

Pers 6.01 POLICY.

To insure employment of the best qualified persons to serve the state, recruitment shall be conducted to attract the highest caliber of persons available and examinations shall be administered to determine the merit and fitness of these persons.

Pers 6.02 DELEGATION OF RECRUITMENT.

In exceptional cases the director may delegate authority for recruitment to appointing officers. Publicity and advertising materials used in such delegated recruitment shall be subject to prior approval by the director.

Pers 6.03 DESIGNATION OF LOCAL EXAMINERS.

The director may designate local examiners pursuant to subsection 16.10 (2), Wis. Stats.

Pers 6.04 ANNOUNCEMENT OF EXAMINATIONS.

(1) Scope of Announcements. Examination announcements shall include the following information: class title; salary information; nature of the work to be performed; training and experience; time, place and manner of filing application; special requirements, if any; and other pertinent information consistent with these rules. Announcements of open competitive examinations shall specify when competition is open to nonresidents. Announcements shall precede all examinations.

(2) Insufficient Number of Qualified Applicants. In the event that a sufficient number of qualified applicants fail to apply for an examination or to qualify after the examination, the director may reannounce the examination, extend the date for filing of applications, or if necessary cancel the examination.

(3) An employment list for a high level, administrative or professional class shall be used for all vacancies in the class, except that in broad, general classifications, the director may authorize new recruitment and examination to fill a subsequent vacancy in that class when substantial differences in geographic location, program emphasis or other recognized employment considerations could be expected to attract new applicants who may be best qualified for the position. Eligibles on the existing employment list shall be notified so they may, if they are interested, compete for the position.

Pers 6.05 SUBSTITUTION FOR FORMAL EDUCATION.

When formal academic training is a qualification requirement, equivalent training and experience may be substituted; except that such substitution shall not be permitted where formal training is required for license or registration to practice or to establish recognized status in a profession or to meet standards set up by agencies making grants-in-aid or otherwise contributing to state programs.

Pers 6.06 COMPOSITION OF EXAMINATIONS.

(1) Open Competitive. Any examination may include a written test, an oral test, ratings of training and experience, a performance test, a medical or physical test or any combination of these and other tests as authorized by the director.

(2) Competitive Promotional. A promotional examination may also include promotional potential ratings in addition to tests and ratings as indicated in subsection Pers. 6.06 (1) and shall include seniority ratings computed as indicated in chapter Pers 19. If a promotional potential rating is to be used as part of a competitive promotional examination, the determination shall be made prior to the written, oral, review of training and experience examination, whichever occurs first.

Pers 6.07 NOTICE OF EXAMINATION RATINGS.

Each person competing in any examination shall be given written notice of the final results.

Pers 6.08 REVIEW OF EXAMINATION RESULTS.

Any examinee, or his duly authorized representative, shall be permitted to review the results of his examination at the bureau during regular office hours and the method by which such results were determined, upon written request filed in person or by his representative. However, an examinee may not review his examination papers during a 30 day period immediately preceding the date on which he is to write an examination for the same or a closely related class; and no review of results is permitted until the examination is completed. Reports on character and of other investigations by the bureau shall be kept confidential.

Pers 6.09 ANONYMITY OF COMPETITORS AND SECURITY OF EXAMINATION MATERIAL.

The director shall use appropriate means to insure that examination papers are not identified until the grading of the written examination is complete and to insure that unauthorized persons do not have access to examinations at any time.

PERS 7

Pers 7.01 ESTABLISHMENT OF EMPLOYMENT LISTS.

For positions involving unskilled or semi-skilled labor, or domestic or custodial work when the character or place of work makes it impracticable to conduct state-wide competitive examinations to set up lists from which to supply the needs of the service, the director may use such procedures as he determines to be practical and appropriate in order to maintain employment lists by localities.

Pers 7.02 EXAMINATION OF APPLICANTS.

Applicants may be examined singly or in groups, at periodic intervals at the place of employment or elsewhere, after passing an appropriate test or submitting satisfactory evidence of their qualifications; *or* referred by the Wisconsin State Employment Service or an established city or county merit system agency in this state; *or* evaluated by such variation or combination of the foregoing or by other suitable methods as will assure selection solely on the basis of merit and fitness.

Pers 7.03 EMPLOYE INELIGIBLE TO CONTINUE IN POSITION.

(1) Any employe appointed under this chapter who is later found to be performing work characteristic of positions not included under this chapter shall be ineligible to continue in the position. Such incumbent shall be transferred to a position for which he is eligible or he shall be dropped from the payroll.

(2) Any such employe whose position is reallocated or reclassified to a position in a different class having a greater

salary range maximum shall be eligible to compete in any open competitive or promotional examination held to fill this position. The transaction by which an employe appointed to the reallocated or reclassified position following such competitive examination shall be deemed a promotion as covered in chapter Pers 14.

PERS 8

Pers 8.01 DESIGNATION BY DIRECTOR.

The director shall designate positions and employment in the classified service as permanent, seasonal, limited term or sessional.

Pers 8.02 KINDS OF EMPLOYMENT.

Generally the characteristics of each kind of position and employment are:

(1) Permanent. Authorized positions of continuous duration that require the services of an employe half-time or more on a daily, weekly or monthly basis. In addition, employment in school year positions shall be designated as permanent.

(2) Seasonal.

(a) *Criteria.* Authorized positions that meet the following criteria: where the need for such positions may be reasonably anticipated; which recur yearly or more often; where employment in such positions would normally lead to a career through successive reinstatements; and which require the services of an employe half-time or more on a daily, weekly or monthly basis. See chapter Pers 9.

(b) *Limitation.* Employment of any person on a seasonal basis shall not exceed 11 months in any 12 month period.

(c) *Exception.* The director may designate positions which recur and are of extremely short duration and lack career possibilities as limited term.

(3) Limited Term. Positions where the nature and condition of employment do not lead to a career and where the use of normal procedures for recruitment and examination are not practicable. See chapter Pers 10.

(4) Sessional. Positions in the legislature as provided in the rules of each house or in the joint rules and positions in the legislative reference bureau, the duration of which is closely related to the duration of the legislative session, shall be designated as sessional.

Pers 8.03 DEFINITION OF APPOINTMENT.

An appointment is the action of an appointing officer to fill a position in his department in accordance with provisions of the law and these rules.

Pers 8.04 TYPES OF APPOINTMENT.

(1) In addition to appointments by promotion (see chapter Pers 14), transfer (see chapter Pers 15), reinstatement (see chapter Pers 16), demotion (see chapter Pers 17) and original appointments (see below) there are the following types of appointment:

(a) Provisional appointment as provided in subsection 16.20 (1), Wis. Stats.

(b) Emergency appointment as provided in subsection 16.20 (2), Wis. Stats.

(c) Exceptional appointment as provided in subsection 16.17 (4), Wis. Stats.

(d) Appointment to a limited term position as provided in subsection 16.20 (3), Wis. Stats. and in chapter Pers 10.

(2) Original appointment, definition. All appointments to positions that are not by promotion, demotion, transfer, or reinstatement as defined in appropriate chapters of these rules.

(3) An employe who has reinstatement eligibility other than from layoff (see chapter Pers 16) and who also has eligibility for original appointment in the same class, may be appointed on either basis at the discretion of the appointing officer, and such determination shall be reported to the director at the time of appointment.

Pers 8.05 LIMITATION OF TYPES OF APPOINTMENT.

(1) Length of Provisional and Emergency Appointment. A provisional appointment shall not exceed 30 work days. An emergency appointment shall not exceed 20 work days.

(2) Length of Limited Term Appointment. See chapter Pers 10.

(3) Successive Provisional and Emergency Appointments Prohibited. In no case shall successive provisional or successive emergency appointments be made in the same employing unit. The employe must be off the payroll for one complete calendar month before the emergency or provisional appointment may be repeated in the same employing unit.

Pers 806 STATUS OF EMPLOYE ON PROVISIONAL, EMERGENCY OR LIMITED TERM APPOINTMENT.

(1) No tenure accrues from any provisional, emergency or limited term appointment.

(2) Time served on any such appointment shall not be counted as part of any probationary period.

(3) No vacation or sick leave is earned on any such appointment.

(4) Employes serving on any such appointment shall not be considered eligible to compete in promotional examinations.

Pers 8.07 LIMITATION ON MULTIPLE APPOINTMENTS.

Except as provided in sec. 20.904 Wis. Stats. relating to cooperation of functions between departments, an employe shall not be appointed to more than the equivalent of one full-time permanent position (excluding over-time, deviation work week, or other variations in that one position). The combination of permanent positions and limited term positions held by an employe shall not exceed the equivalent of one full-time permanent position, plus work on a limited term basis totaling less than half-time on a daily, weekly, or monthly basis. However, an employe may work in excess of the half-time rate for 3 months in any 12 month period, but in no case shall the total Limited Term Employment time be in excess of Pers 10.08.

PERS 9

Pers 9.01 POLICY ON SEASONAL EMPLOYMENT.

It is the policy of the state to consider employes of seasonal positions as career employes of the state during the course of employment and to provide, subject to the limitations and fluctuations of the seasonal cycles, a reasonable guarantee of successive reinstatements to these positions during the following seasons.

Pers 9.02 LIMITATION.

When the nature and conditions of employment in a seasonal position approaches year-round full-time employment (more than 11 months in any 12 month period) the appointing officer shall request establishment of a permanent position and abolish the seasonal position. An employe occupying such abolished seasonal position shall be transferred to a new position providing such employe could have been considered for appointment to a permanent position from the register if a register existed at the time he was appointed to the seasonal position. If said register is beyond three year extension period, the person occupying such abolished seasonal position shall establish eligibility by noncompetitive examination.

Pers 9.03 SEASONAL STATUS.

The probationary period of an employe appointed to a seasonal position shall be for a period of 6 consecutive months. Upon satisfactory completion of the probationary period the employe shall have seasonal status.

(1) This status requires reinstatement of this employe to the same or similar positions within the department during succeeding seasons subject to section 16.24, Wis. Stats. provided the employe continues to render satisfactory services during his employment and his conduct and capacity

after he has been separated merit such reinstatement. The seasonal status of any employe, however, shall have no bearing on the duration of the seasonal period.

(2) See subsection Pers 16.02 (2) for reinstatement to other departments.

(3) An employe who has completed a probationary period in a seasonal position and is subsequently appointed to a permanent position in the same classification in the same department shall not be required to serve a new probationary period in the permanent position.

Pers 9.04 REINSTATEMENT OF SEASONAL EMPLOYES WITHOUT SEASONAL STATUS.

Seasonal employes in seasonal positions the duration of which is less than 6 months in a single season may be reinstated to the same or similar positions at the discretion of the appointing officer.

Pers 9.05 SENIORITY.

See chapter Pers 19.

Pers 9.06 LEAVES OF ABSENCE, VACATION, SICK LEAVE

See chapter Pers 18.

PERS 10

Pers 10.01 GENERAL APPLICATION.

(1) Statutory References. See subsections 16.105 (2) (bn), 16.20 (3), and 16.24 (2), Wis. Stats.

(2) No tenure accrues in this kind of employment. See chapter Pers 8.

Pers 10.02 PROHIBITIONS ON THE USE OF LIMITED TERM EMPLOYMENT.

(1) Policy. Limited term employment shall not be used to fill vacancies in permanent or seasonal positions in the classified service; however, in exceptional instances the director may authorize the use of limited term employment to fill vacancies in permanent or seasonal positions where the vacancy is of short duration.

(2) Each such case will be determined on its own merits, and the director may, at any time, terminate the authorization for such limited term employment.

Pers 10.03 APPROVAL BY DIRECTOR.

(1) Except when specifically otherwise authorized by the director, prior approval is required for the use of limited term employment including titles, salaries, durations, procedures, records, etc.

(2) Authorization for use shall be based upon the nature of employment with due consideration given by the director to current labor market conditions, probable duration of employment, the need for formal examination procedures and other pertinent circumstances.

Pers 10.04 PROCEDURES AND RECORDS.

Procedures for recruitment, examination, compensation and record-keeping covering limited term employment may be abbreviated to provide only those minimum processes and records consistent with expediting employment and safeguarding public interests.

Pers 10.05 TITLES AND SALARIES.

(1) Wherever possible classification titles in the limited term employment and state fair salary schedule shall be used for these employments.

(2) No salary increases shall be allowed for this kind of employment except those approved by the director for economic adjustment for comparable work on a permanent basis or for a distinctly different duty assignment.

Pers 10.06 DEFINITION AND DURATION OF CATEGORIES.

Within limited term employment as a *kind of employment* as covered in chapter Pers 8 are the following categories:

(1) Short-Term. Employment in a position of less than 6 successive calendar months duration which does not recur at regular intervals.

(a) Included in this category are those positions excluded by subsection Pers 8.02 (2)(c).

(b) Casual employment in positions that occur, terminate and recur at irregular intervals and for varying periods of time is also included in this category but shall be designated as *short-term recurring*. Employment in such positions may extend beyond the 6 successive calendar months duration limit but the total accumulation of time worked in any calendar year shall be subject to section Pers 10.08 for time computation.

(2) Project. Employment in a planned undertaking which is not a regular and continuing function of the department and which has an established probable date of termination.

(3) Part-Time. Employment in any position where the time worked is less than half-time on a daily, weekly or monthly basis.

(4) Student. Employment at the University of Wisconsin, one of the state colleges, or a state educational institution of a student of such university, college or institution who is currently enrolled or who will enroll at the next session.

Pers 10.07 RENEWALS, EXTENSIONS, CHANGE OF CATEGORIES AND CLASSIFICATION.

Renewal of employment, extension of time duration, change in category or classification for any employe on a limited term employment shall not be permitted except for unusual unforseeable circumstances. Justification is required for any such renewal, extension, change in category or classification and each case will be determined on its own merits.

Pers 10.08 MAXIMUM WORK DURATIONS.

The total time worked in any department by a limited term employe on a short-term, short term recurring or part-time basis shall not exceed the equivalent of 6 work months of employment in any 12 month period.

Pers 10.09 CHANGE IN STATUS BETWEEN LIMITED TERM AND SEASONAL OR PERMANENT.

(1) When a limited term employe approved under subsection Pers 10.06 (3) works in excess of part-time for a period of 3 successive payroll periods, and such work time is expected to continue to be in excess of part-time, the appointing officer shall request establishment of a new permanent or seasonal position. The employe shall qualify for appointment to the new position through regular procedure.

(2) When a permanent or seasonal employe, except those affected by action taken in accordance with subsection 16.29 (4), Wis. Stats., works less than half-time in a permanent or seasonal position (see subsection Pers 8.02 (1) and 8.02 (2) respectively) for 3 successive calendar months and such work time is expected to continue at this rate, the employe shall become a limited term employe.

(3) Any vacation or sick leave an employe has earned prior to his change to limited term status shall be available for use pursuant to chapter Pers 18.

PERS 11

Pers 11.01 ESTABLISHMENT AND MAINTENANCE OF LISTS.

(1) The director shall establish and maintain employment lists (also called employment registers) needed to fill positions in the classified service.

(2) Employment lists shall be by class title and sub-title as established in specifications within the classification plan and shall be used by all departments except where the law, a rule or the director specifically provides otherwise.

(3) Names may be added by order of rank to employment lists when, in the judgment of the director, the needs of the service will be benefited by such integrated lists, and such fact is specified by examination announcement.

Pers 11.02 TYPES OF LISTS.

(1) Open Competitive. Established from competition open to all qualified applicants within and outside the service.

(2) Promotional. Established from competition limited to qualified employes in the classified service. See section Pers 11.05.

(3) Reinstatement. Made up of names of those eligible for reinstatement. See chapter Pers 16.

Pers 11.03 EMPLOYING UNITS

Each department shall normally be considered a unit for purposes of promotion, transfer, reinstatement or layoff. However, the board, upon application of the appointing officer and after taking into consideration the recommendation of the director, may recognize established functional, organizational, or geographical units within the department for such actions.

Pers 11.04 TERM OF ELIGIBILITY ON AN EMPLOYMENT LIST.

(1) Open Competitive and Promotional Lists. Eligibility is limited to 6 months from the date of the list or from the date of eligibility of each individual in the case of an integrated list. A list may be extended by the director for a period not to exceed 3 years from the date of the list, provided that a subsequent list for the same class is not in effect which contains sufficient names available for certification.

(2) Reinstatement Lists. Eligibility on reinstatement lists is for a 12 month period from date of separation. Such eligibility may be extended by the director for a period not to exceed 3 years from date of separation.

Pers 11.05 PROMOTIONAL LISTS.

(1) Service-Wide. A list established from competition open to all qualified state employes.

(2) Restricted. A list established for a department or an employing unit by selecting names of the departmental or employing unit employes by order of rank from a service-wide list.

(3) Departmental. A list established from competition limited to a department or an employing unit whenever position requirements do not indicate service-wide competition to be feasible.

Pers 11.06 REMOVAL OF NAMES FROM LISTS.

(1) In addition to the reasons given in subsection 16.13 (1), Wis. Stats., the director may remove a name from a list under any of the following circumstances:

(a) *Appointment.* When a person is appointed, his name shall be removed from the list, but may be reactivated on such list upon written request.

(b) *Failure to respond to inquiry.* When a person does not respond within 5 work days to an inquiry relative to availability for employment.

(c) *Unable to locate.* When a person cannot be located by reasonable means.

(d) *Non-selection after three certifications.* See subsection 16.18 (1), Wis. Stats.

(e) *Termination from state service.* Upon termination a person's name shall be removed from any promotional lists.

(2) Names may be reactivated on the lists whenever information is received by the director which nullifies the reason for removal.

Pers 11.07 STATEMENT OF AVAILABILITY.

It shall be the responsibility of an eligible to inform the director of any change in his availability or the conditions under which he will accept employment.

PERS 12

Pers 12.01 ACTION BY APPOINTING OFFICER.

When an appointing officer wishes to fill a vacancy, he shall submit a request to the director on the prescribed form.

Pers 12.02 ACTION BY THE DIRECTOR.

(1) The director shall certify eligibles or authorize appointment by other means as provided in the law and rules. Except for persons who are on reinstatement lists from layoff (See section Pers 16.02), employment lists shall normally be used in the following order of preference, subject to the discretion of the director: (a) promotional, (b) open competitive. The director shall place on file reasons for exceptions from this order of preference. The director may submit the names of persons interested in transfer or reinstatement (other than from layoff) along with or in lieu of a certification.

(2) Whenever in extraordinary circumstances an appointing officer demonstrates a clear need for special qualifications, such as specialized training or pertinent prior experience, and such request is approved by the director pursuant to subsection 16.13 (1), Wis. Stats., selective certification may be made of persons having those qualifications, even though in so doing other persons on the list with higher ratings but without such special qualifications may not be certified to that particular vacancy. In such cases, the qualifications of the eligibles on the list shall be reviewed for possession of the special qualifications beginning with the highest ranking eligible and continuing until certification can be made. This provision shall not be used in any way to circumvent the merit principle, and the director shall report bimonthly to the board on application of selective certification.

Pers 12.03 USE OF RELATED LISTS.

(1) Lacking a complete certification, the appointing officer may request additional names to complete the certification. Additional names may be certified and shall be considered in rank order following those originally certified.

(2) The director may certify additional names from lists of related higher or parallel classes to fill out an incomplete certification, or may make a complete certification from lists of related higher or parallel classes when no list exists for the class requested. This is provided that the examinations for the higher or parallel classes have measured the capability of eligibles to perform the work of the class for which certification is to be made. If such related lists are not available, a new list may be established from which to obtain the necessary names.

Pers 12.04 STATEMENT OF AVAILABILITY OF APPLICANT

See section Pers 11.07.

Pers 12.05 TERMINATION OF A CERTIFICATION

Certification from a list must be made prior to the expiration date of the list, and eligibility for appointment from such certification shall not extend more than 30 calendar days beyond the expiration date, unless the list has been extended.

PERS 13

Pers 13.01 DEFINITION AND POLICY STATEMENT.

The probationary period is an integral part of the examination process, applicable in situations as outlined in the law and in these rules, and shall be used to closely observe the work of appointees and determine whether they will be able to effectively carry out their duties and responsibilities. At any time during a probationary period that an employe does not demonstrate the necessary capabilities, he shall be removed from the position by the appointing officer.

Pers 13.02 DURATION.

All probationary periods are for 6 months duration, except:

(1) In the case of trainees, the probationary period shall be the total length of the training period, and

(2) In the case of intern classes, the probationary period shall be the length of the intern program, and

(3) In the cases where longer probationary periods are authorized in accord with subsection 16.22 (1), Wis. Stats.

(4) In cases of reinstatement and transfer, the duration of probationary periods shall be at the discretion of appointing officers, but in no case to exceed 6 months.

Pers 13.03 WHEN PROBATIONARY PERIOD REQUIRED.

(1) Original appointments to permanent or seasonal positions.

(2) Appointment by promotion to permanent or seasonal positions.

(3) For the duration that an employee is holding a position classified as trainee.

(4) Appointment of a trainee to a permanent position in the objective class.

(5) When an employe's position is reclassified pursuant to Pers 3.02 (2)(a) and (f) during the time the employe is serving a probationary period for an original or promotional appointment, he shall be required to serve a new probationary period starting with the effective date of the reclassification action. The employe shall receive a salary increase pursuant to 16.105 (2)(d) Wis. Stats. effective at the beginning of the pay period following completion of the new probationary period.

Pers 13.04 WHEN PROBATIONARY PERIOD PERMISSIVE.

(1) At the discretion of the appointing officer a probationary period may or may not be required in the following cases when movement is to a different employing unit in the same department or to a different department:

(a) Transfer (See chapter Pers 15).

(b) Reinstatement (See chapter Pers 16).

Note: A probationary period shall not be required for reinstatement under section 16.24, Wis. Stats.

(c) Voluntary demotion (See chapter Pers 17).

(2) The appointing officer shall specify upon appointment and report to the bureau his determination to require an employe to serve such probationary period. He shall likewise give written notice to the employe of his determination.

(3) The appointing officer shall have authority to terminate these probationary periods at any time. He shall notify the Director and the employe of his determination to terminate such employe's probationary period.

Pers 13.05 LAPSES IN EMPLOYMENT.

(1) One Month Lapse. If an employe has lapses in employment not exceeding one month due to: (a) injury arising from state employment and covered by workmen's compensation act, or (b) for another reason approved by the appointing officer, the appointing officer shall determine whether the probationary period is to be extended to cover such absence.

(2) More Than One Month Lapse. If an employe has such lapse of employment totaling more than one month, the probationary period shall be extended by the length of the lapsed time, except that up to one month may be waived by the appointing officer.

(3) Layoff. If an employe is laid off due to lack of work or funds during a probationary period, and is later reappointed from the same employment list to a position in the same department, the time served shall be carried over and applied as part of the probationary period for the second appointment. In cases where the second appointment is to a different department, the time served may be carried over at the discretion of the new appointing officer. Determination of any such carry-over shall be specified at the time of the second appointment and reported to the bureau. The appointing officer shall also give written notice to the employe of his determination.

(4) Resignation. If an employe resigns during a probationary period, and is later reappointed from the same employment list to a position in the same or a different department, the time served shall not be carried over.

Pers 13.06 LATERAL MOVEMENTS.

(1) Definition. Lateral movements for the purpose of this section include any movement (in the nature of a transfer) to a permanent or seasonal position in the same salary schedule range and in the same or a closely related class, while the employe is serving a probationary period. The probationary period time served prior to such a movement *shall* be, *may* be, or *shall not* be carried over and applied to the new probationary period as follows:

(a) *Within an employing unit.* Shall be carried over.

(b) *Between employing units of same department.* May be carried over.

(c) *Between departments.* Shall *not* be carried over when movement is from a probationary period resulting from an original appointment or promotion; *may* be carried over when movement is from a probationary period resulting from transfer.

(2) In any of the above cases where time served *may* be carried over, it shall be at the discretion of the appointing officer. Determination of any such carry-over shall be specified upon appointment and reported to the bureau. The appointing officer shall also give written notice to the employe of his determination.

(3) When such a movement is made to a position in an unrelated class, there shall be *no* carry-over of probationary period and such appointment shall be treated as an original appointment.

Pers 13.07 TIME NOT COUNTED.

Time served in limited term employment or on an emergency or provisional appointment shall not be counted as a part of any probationary period.

Pers 13.08 DISMISSAL.

(1) Action by Appointing Officer. At any time during a probationary period, the appointing officer shall dismiss an employe whose conduct or competency does not merit his continuance in the position. See subsections 16.22 (1), Wis. Stats., Pers 14.03 (1), Pers 15.04 (2), and Pers 20.03 (5)(a) for rights of employes who are on probationary periods for certain transactions.

(2) Dismissal Notice Required. When a dismissal is to be effected, the appointing officer shall immediately notify in writing the person to be dismissed of the reasons for dismissal and the date on which dismissal is to occur, and send a copy of such notice to the director. Any employe who is dismissed while on a probationary period under the provisions of subsections Pers 14.03 (1), Pers 15.04 (2), or Pers 20.03 (5)(a), shall also be notified whether or not he is to be restored to his former position and salary.

(3) Reactivation of Name on Employment Lists. See subsection 16.22 (3), Wis. Stats.

Pers 13.09 PROGRESS REPORTS.

At such times during a probationary period and in such manner as the director may require, the appointing officer shall report to the director his judgment as to the employe's willingness and ability to effectively perform the work of the position, and as to his suitability and dependability.

Pers 13.10 SUCCESSFUL COMPLETION.

If the performance of an employe on a probationary period has been satisfactory, the appointing officer shall notify the employe and the director in writing that the employe will receive a permanent appointment. Permanent status begins when an employe reports for work (unless on approved leave) on the first work day following completion of the probationary period. No employe shall be denied permanent status after successfully completing a probationary period because an appointing officer fails to submit notice of the permanent appointment.

Pers 13.11 EXTENDED PROBATIONARY PERIODS.

Extended probationary periods as provided for in subsection 16.22 (1), Wis. Stats. shall be applied on a class basis. The determination of the need for an extended probationary period shall be made by the director after taking into consideration the recommendation of the employing department no later than the time the certification request is submitted to the bureau. The recruitment announcements shall inform all applicants of the extended probationary

period. At any time after the first 6 months of such probationary period has been served by an employe, the appointing officer may terminate the probationary period, provided the appointing officer notifies in writing both the employe and the director one month prior to the effective date of such action.

PERS 14

Pers 14.01 DEFINITION.

Promotion is the movement of an employe with permanent status from a position in one class to a position in a different class having a greater salary range maximum as specified by subsection 16.19, Wis. Stats.

Pers 14.02 EXCLUSIONS.

(1) The appointment of an employe to a position in a higher classification while the employe is serving a probationary period on an original or promotional appointment shall be considered as a new original appointment or new promotional appointment respectively.

(2) The appointment of an employe with former permanent status who returns to state service after a break in service not covered by leave to a position in a higher classification shall be considered as an original appointment.

(3) For provisions relating to the appointment of persons or employes to positions classified as trainee see chapter Pers 20.

Pers 14.03 KINDS OF PROMOTION; STATUS AND RIGHTS.

(1) For Promotion Within The Same Department. In accordance with subsection 16.22 (1), Wis. Stats., the employe shall be required to serve a probationary period. At any time during this period the appointing officer may remove and restore the employe to his former position or a similar position and salary without the right of appeal. Any other removal, suspension without pay, or discharge during the probationary period shall be subject to subsection 16.24 (1), Wis. Stats.

(2) For Promotion Between Departments. In accordance with subsection 16.22 (1), Wis. Stats., the employe shall be required to serve a probationary period. At any time during this period the appointing officer may dismiss the promoted employe. See subsection 16.22 (3), Wis. Stats. for provisions relating to reinstatement eligibility of an employe so dismissed.

Pers 14.04 SALARY ON PROMOTION.

In this section *new range* and *step* refer to the salary schedule range and step amount in such range for the class to which an employe is promoted.

(1) Immediate Increase. An employe's present salary rate shall be increased to the minimum of the new range if his present step is one step or more below the minimum of the new range. If an employe's present rate is less than one step below the minimum of the new range or is above the minimum of the new range, his present rate shall be increased by an amount equal to one step.

(2) Salary After Six Months. Upon completion of the first 6 months of the probationary period the promoted employe shall receive an increase of one step, subject to the limitations of subsection 16.105 (2)(b), Wis. Stats.

PERS 15

Pers 15.01 DEFINITION.

A transfer is the movement of an employe with permanent status from one position to another position in the same salary schedule range.

Pers 15.02 LATERAL MOVEMENT WHILE ON PROBATIONARY PERIODS.

See section Pers 13.06.

Pers 15.03 APPROVAL BY DIRECTOR.

All transfers into or within a department except reassignments to different positions in the same class in the same employing unit require prior approval by the director.

Pers 15.04 KINDS OF TRANSFER; STATUS AND RIGHTS.

(1) Transfer Between Departments. An employe who transfers between departments may be required to serve a probationary period at the discretion of the appointing officer. If during this period his services are found to be unsatisfactory he may be separated at the discretion of the appointing officer without the right of appeal. See subsection 16.22 (3), Wis. Stats. for provisions relating to reinstatement eligibility of an employe so dismissed.

(2) Transfer Between Different Employing Units of the same department may be required to serve a probationary period at the discretion of the appointing officer.

(a) If the appointing officer does not require a probationary period the employe retains permanent status previously acquired.

(b) If a probationary period is required, the appointing officer may restore the employe to his previous position or similar position and salary at any time during this period. Any other removal, suspension without pay, or discharge during the probationary period shall be subject to subsection 16.24 (1), Wis. Stats.

(3) Transfer Within the Same Employing Unit. An employe who transfers to a position in a different class within the same employing unit or an employe who transfers to a position in the same class (reassignment) shall not be required to serve a probationary period. In the latter case the transfer does not require approval of the director.

Pers 15.05 SALARY ON TRANSFER.

When an employe transfers the rate paid may be any rate within the salary schedule range which is not greater than the last rate received in his former position. In any transfers where an employe is required to serve a probationary period, completion of such probationary period shall not make the employe eligible to receive a salary increase as provided in subsection 16.105 (2)(d), Wis. Stats.

PERS 16

Pers 16.01 DEFINITION.

Reinstatement is the restoration without competition of an employe or former employe to a position in the same or a closely related class in which he was previously employed. Reinstatement applies to permanent and legislative employes as covered in subsection 16.23 (2), Wis. Stats.; employes who enter military service as covered in subsection 16.276 (1)(b), Wis. Stats.; and for seasonal employes as provided in chapter Pers 9.

Pers 16.02 TYPES AND CONDITIONS OF REINSTATEMENT.

(1) Layoffs Have Priority. An employe who has been laid off or demoted in lieu of layoff shall be reinstated when a vacancy for which he is qualified occurs in the department from which he was laid off, according to the inverse order of the layoff. The appointing officer shall notify each person laid off that he may establish reinstatement eligibility through the bureau within one year from the date of layoff, and that he may request that his eligibility be extended for one year intervals not to exceed 3 years from date of layoff.

(2) Permissive Reinstatement. An employe who has been separated from state service without misconduct or delinquency, or who has accepted a voluntary demotion for personal reasons, may establish reinstatement eligibility for employment in any department subject to approval of the director, provided that:

(a) The individual or an appointing officer requests reinstatement within one year (a legislative employe 2 years) from date of separation; or

(b) An appointing officer requests an individual's reinstatement after the first year and within 3 years from date of separation; and approval is given pursuant to subsection 16.17 (2), Wis. Stats.

(3) Reinstatement by Personnel Board or Court Action.

See section 16.24, Wis. Stats. A probationary period shall not be required for such reinstatement.

(4) Non-Completion of Probationary Period Upon Promotion. See subsections 16.22 (1), Wis. Stats. and Pers 14.03 (1).

Pers 16.03 KINDS OF REINSTATEMENT; STATUS AND RIGHTS.

(1) Reinstatement to Different Department. An employe who is reinstated to a department other than the one from which he earned reinstatement rights may be required to serve a probationary period at the discretion of the appointing officer. If not required to serve a probationary period the employe resumes permanent status immediately. If required to serve a probationary period and during such period the employe's services are found to be unsatisfactory he may be separated without the right of appeal at the discretion of the appointing officer.

(2) Reinstatement to a Different Employing Unit of the Same Department. An employe who is reinstated to a different employing unit in the same department from which he earned reinstatement rights may be required to serve a probationary period at the discretion of the appointing officer. If not required to serve a probationary period the employe resumes permanent status immediately. If required to serve a probationary period and during such period the employe's services are found to be unsatisfactory he may be separated without the right of appeal at the discretion of the appointing officer.

(3) Reinstatement to the Same Employing Unit. An employe shall not be required to serve a probationary period when reinstated to the same employing unit that he left. Such an employe resumes permanent status immediately.

Pers 16.04 DISMISSAL DURING PROBATIONARY PERIOD.

The name of an employe who is dismissed from a probationary period following reinstatement may at the discretion of the director be returned to the reinstatement list.

Pers 16.05 SALARY ON REINSTATEMENT.

(1) When an employe is reinstated, the salary may be:

(a) At any rate within the salary schedule range of the class reinstated to, which is not greater than the rate received upon separation (plus intervening service-wide salary adjustments), or

(b) At the minimum of the salary schedule range if the minimum exceeds the rate last received, or

(c) In the case of employes restored following military service see section 16.276, Wis. Stats.

(2) In any reinstatement where an employe is required to serve a probationary period, completion of such probationary period shall not make the employe eligible to receive a salary increase of provided in subsection 16.105 (2)(d), Wis. Stats.

Pers 16.06 SENIORITY.

See chapter Pers 19.

PERS 17

Pers 17.01 DEFINITION.

A demotion is the movement of an employe with permanent status from a position in one class to a position in another class that has a lower salary range maximum.

Pers 17.02 EXCLUSIONS.

(1) The appointment of an employe to a position in a lower classification while the employe is serving a probationary period on an original appointment shall be considered as a new original appointment.

(2) The appointment of an employe with former permanent status to a position in a lower classification following a break in service not covered by leave shall be considered as an original appointment except when such return shall be considered as a reinstatement. See chapter Pers 16.

(3) The reduction in the classification of a position held by an employe with permanent status that does not involve movement of the employe to a different position is considered a reclassification. See chapter Pers 3.

(4) The action by which a promoted employe is restored to his previous position and salary as provided in subsection Pers 14.03 (1) is not considered a demotion. See chapter Pers 16.

(5) Salary reduction that does not involve a change in positions or class is not considered a demotion. See subsection 16.24 (1), Wis. Stats.

Pers 17.03 REPORT OF APPOINTING OFFICER; APPROVAL BY DIRECTOR.

(1) All demotions shall be reported to the director in accordance with subsections 16.24 (1) and 16.25 (1), Wis. Stats.

(2) Approval of the director is required to determine the eligibility of the employe to perform the duties of the position in the class to which he is demoted.

Pers 17.04 KINDS OF DEMOTION; STATUS AND RIGHTS.

(1) Involuntary Demotion Within a Department. An appointing officer may demote an employe for disciplinary purposes as provided in subsection 16.24 (1), Wis. Stats. or as a result of reduction in force in lieu of laying him off.

(a) In either case: the demotion may be made to any position within the department regardless of employing unit; and the employe may appeal the demotion within 10 calendar days of the effective date of such action.

(b) An employe demoted for disciplinary purposes does not retain permanent status previously acquired in the higher class of position, nor does he retain reinstatement eligibility to the higher class of position. He does acquire permanent status and tenure rights in the class of position to which he is demoted. No probationary period shall be required for an employe demoted for disciplinary purposes.

(c) An employe demoted in lieu of layoff retains permanent status previously acquired in the higher class of position. For provisions relating to the reinstatement of an employe so demoted, see chapter Pers 16. No probationary period shall be required for an employe demoted in lieu of layoff.

(2) Voluntary Demotion Within a Department. An employe with approval of the appointing officer may accept a voluntary demotion within the department either to a position in the same employing unit, or to a position in a different employing unit. Acceptance of such voluntary demotion shall be furnished the director in writing by the employe.

(a) In either case, tenure rights to the previously held position are not retained.

(b) If the demotion is to a position in the same employing unit, an employe retains permanent status previously acquired and a probationary period for employment in the lower class of position shall not be required.

(c) If the demotion is to a position in a different employing unit, the employe may be required to serve a probationary period at the discretion of the appointing officer. If during such period the services of the employe are found to be unsatisfactory, he may be separated without the right of appeal. If the employe is not required to serve a probationary period, he retains permanent status previously acquired.

(d) For provisions relating to the return of an employe to his former class of position, see chapter Pers 16.

(3) Voluntary Demotion Between Departments. An employe may move to a position in a lower classification in a different department as a voluntary action either for personal reasons or in lieu of being laid off.

(a) In either case, the employe may be required to serve a probationary period at the discretion of the appointing officer, and if during this period the employe's services are found to be unsatisfactory, he may be separated without the right of appeal. If the employe is not

required to serve a probationary period, he retains permanent status previously acquired.

(b) For provisions relating to the return of an employe to his former class of position, see chapter Pers 16.

Pers 17.05 SALARY ON DEMOTION.

When an employe is demoted the rate paid may be any rate within the salary schedule range for the class to which he is demoted which is not greater than the last rate received immediately prior to is demotion. In any demotion where an employe is required to serve a probationary period, completion of such probationary period shall not make the employe eligible to receive a salary increase as provided in subsection 16.105 (2)(d), Wis. Stats.

PERS 18

Pers 18.01 DEFINITION.

Leave of absence means absence from employment with the approval of the appointing officer in accordance with the appropriate statutory provision or rule. Throughout these rules *month* means a calendar month or the period from a given date in one month through the date preceding the given date in the following month.

Pers 18.02 VACATION.

(1) Employes Who Earn Vacation. All classified employes shall earn vacation except:

(a) Emergency employes.

(b) Provisional employes.

(c) Limited term employes.

(d) Employes who do not qualify under subsection 16.275 (1)(e), Wis. Stats.

Vacation may not be earned subsequent to an employe's last actual work day if immediately followed by termination.

(2) Continuous Service. Continuous service shall include all the time the employe has been in continuous employment status in a permanent, seasonal, sessional, or unclassified position. The continuous service of an employe eligible for a vacation shall not be considered interrupted if he:

(a) Was absent for not more than 30 consecutive calendar days.

(b) Was on an approved leave of absence.

(c) Left the service for any reason except to take other employment and is reemployed within 3 years, employment by any other political subdivision of this state shall not be construed as other employment.

(d) Was absent on military leave.

(e) Was absent due to injury or illness arising from state employment and covered by the workmen's compensation act.

(3) Computing Years of Service. In determining the number of full years of service completed, credit shall be given for all time in employment status in a permanent, seasonal, sessional, or unclassified position. Any absence of more than 30 calendar days except for military leave and absence due to injury or illness arising out of state employment and covered by the workmen's compensation act shall not be counted. Only the most recent period of continuous service may be counted in determining an employe's length of service.

(4) Eligibility. After completion of the first six months in a permanent or seasonal position pursuant to subsection 16.22 (1), Wis. Stats., or after the first six months of employment as a trainee unless covered under subsection Pers 18.04 (3), employes shall be granted noncumulative vacation based on accumulated continuous state service as follows:

(a) Regular Employes.

1. Persons who were employed on January 1, 1959, or whose absence on that date is covered under subsection Pers 18.02 (2), and were employed prior to January 1, 1958, at the rate of 3 weeks for a full year's service and, based on his accumulated continuous state service, at the rate of 4 weeks after 20 full years of service.

(2) Persons, except those provided for in subsection Pers 18.02 (4)(a)(1) above, based upon accumulated continuous state service, at the rate of 2 weeks each year for a full year of service during the first five years of service; three weeks each year for a full year of service during the next fifteen years of service; four weeks each year for a full year of service after 20 years of service.

(b) *School year employes.* Employes who are regularly employed on a school year basis for less than 12 months out of a year but who are employed 6 or more months in continuous service in the employing department shall be granted prorata vacation consistent with subsection Pers 18.02 (4)(a). Such continuous service need not be in a single year.

(c) *Seasonal employes.* Employes who are regularly employed for less than 12 months out of a year but who are employed 6 or more months in continuous service in the employing department shall be granted prorata vacation consistent with subsection Pers 18.02 (4)(a). Such continuous service need not be in a single calendar year.

(5) Computing Vacation.

(a) Vacation credits in any given year shall not be earned for any period of absence without pay except that for administraitve purposes any approved leave or leaves of absence totaling 30 calendar days or less in a calendar year may be disregarded.

(b) Vacation for employes covered in subsection Pers 18.02 (4)(a) 2. shall be prorated during the fifth year of employment at the rate of 2 or 3 weeks respectively.

(c) Vacation for employes covered in subsections Pers 18.02 (4)(a) 1. and Pers 18.02 (a) 2. shall be prorated during the twentieth year of employment at the rate of 3 or 4 weeks respectively.

(d) Upon termination of employment vacation shall be prorated.

(e) The following table prorates vacation to the nearest ¼ day on the basis of an employe's vacation rate for the fractional part of a month worked:

VACATION DAYS EARNED FOR FRACTIONAL PART OF A MONTH

BEGINNING EMPLOYE

Beginning Date of Month	*Days Earned* 2 *weeks*	3 *weeks*	4 *weeks*
1 - 5	10/12	15/12	20/12
6 - 10	8/12	12/12	16/12
11 - 15	6/12	9/12	12/12
16 - 20	4/12	6/12	8/12
21 - 25	2/12	3/12	4/12
26 - 31	0	0	0

ENDING EMPLOYE

Beginning Date of Month	*Days Earned* 2 *weeks*	3 *weeks*	4 *weeks*
1 - 5	0	0	0
6 - 10	2/12	3/12	4/12
11 - 15	4/12	6/12	8/12
16 - 20	6/12	9/12	12/12
21 - 25	8/12	12/12	16/12
26 - 31	10/12	15/12	20/12

After computing in twelfths the total vacation earned, divide by 12 to determine full days and apply the remaining fraction to the following schedule:

Remaining Fractions	*Vacation Credit Conversion*
1/12	0
2/12, 3/12 or 4/12	¼ Day
5/12, 6/12 or 7/12	½ Day
8/12, 9/12 or 10/12	¾ Day
11/12	1 Day

(6) When Vacation May Be Taken. In determining vacation schedules the appointing officer shall respect the wishes of the eligible employes as to the time of taking their vacation insofar as the needs of the service will permit. Vacation allowance shall be taken during the vacation year except that employes who are required by their appointing officer to defer all or a part of their vacation for

a given vacation period may be permitted to take it within the first 6 months of the ensuing vacation year.

Pers 18.03 SICK LEAVE.

(1) Employes Who Earn Sick Leave. All classified employes shall earn sick leave except:

(a) Emergency employes.

(b) Provisional employes.

(c) Limited term employes.

(2) Accrual of Sick Leave.

(a) Sick leave shall accrue at the rate of one day of sick leave for each calendar month of service. Sick leave allowance shall be accumulated in the employe's base sick leave account until a maximum of 60 days has accrued.

(b) Sick leave credits in any given year shall not be earned for any period of absence without pay or time otherwise not worked or paid for except that for administrative purposes any approved absence or absences totaling 30 calendar days or less in a calendar year may be disregarded.

(c) Unused sick leave in excess of 60 days shall accumulate in the employe's reserve sick leave account. No sick leave shall accrue in the reserve account unless the 60 day maximum is maintained in the base account.

(d) Sick leave shall not be used until it has been accrued.

(3) Use of Sick Leave. The normal use of sick leave shall be charged to the base account. In the event of extended illness sick leave taken shall be charged to the base account until that is exhausted. Sick leave in the reserve account may be used only upon recommendation of the employe's appointing officer and with the approval of the commissioner of administration and the director.

(4) Eligibility for Sick Leave.

(a) Each permanent classified employe, employe serving his probationary period and seasonal employe who has earned sick leave credits shall be eligible for sick leave for any period of absence from employment which is due to his illness, bodily injury, exposure to contagious disease, attendance upon members of his immediate family (employe's parents, wife, husband, children, brother, sister or another member of the immediate household) where employe's presence is required or death in the immediate family of the employe or his spouse. The department has the duty to require that the employe make other arrangements, within a reasonable period of time, for the attendance upon children or other persons in his care.

(b) An appointing officer may require a medical certificate to justify the granting of sick leave.

(5) Effect of Termination of Employment. Previously accumulated sick leave shall not be terminated by absence on approved leave as provided in these rules. Separation from the service by resignation, retirement, or for cause as provided in section 16.24, Wis. Stats. shall cancel all unused accumulated sick leave allowance. Whenever a permanent employe is laid off due to lack of work or funds, any unused accumulated sick leave allowance shall continue in effect, if he is rehired by any department within one year.

(6) Table For Prorating Sick Leave.

BEGINNING EMPLOYE

Beginning Date	*Days Earned*
1 - 8	1
9 - 23	½
24 - 31	0

ENDING EMPLOYE

Ending Date	*Days Earned*
1 - 8	0
9 - 23	½
24 - 31	1

Pers 18.04 OTHER PROVISIONS RELATING TO VACATION AND SICK LEAVE.

(1) Vacation or Sick Leave on Holidays. In the event that a holiday falls on a regular work day within the week or weeks taken as vacation or sick leave, such holiday shall not be charged as vacation or sick leave. For any day on which work is suspended, such suspension shall not be construed to extend any vacation or sick leave to an employe in such status at the time.

(2) Transfer of Credits. Whenever an employe eligible for vacation or sick leave separates from the service of one employing unit of the state and accepts, by certification or transfer, service in a classified position in another employing unit of the state, obligation for any accumulated and unused vacation and sick leave allowance shall be assumed by the new employing unit.

(3) Effect of Classification Changes. Promotion, demotion or change in classification of the position held by an employe shall not cause him to forfeit or lose his earned vacation or sick leave rights or privileges.

(4) Effect of Change in Status. See subsection Pers 10.09 (3).

Pers 18.05 LEAVE WITHOUT PAY.

(1) When Granted.

(a) *Administrative leave.* Leave without pay for a period not to exceed one month may be granted by the appointing officer.

(b) *Formal leave.* Application for a leave in excess of one month shall be filed by the employe on forms supplied by the bureau. A classified employe may be allowed a leave of absence without pay for a period not to exceed one year. Such leave is subject to the recommendation of the appointing officer and the approval of the director before becoming effective. Such leave shall be granted only when it will not result in prejudice to the interests of the state as an employer beyond any benefits to be realized upon the employe's return to the service. Leave without pay may be granted for: educational purposes where direct or indirect benefit accrues to the service; purposes of working for a limited period in other employment where the experience would afford a direct benefit in the performance of his work for the state upon his return; maternity cases and exceptional personal reasons other than those mentioned above. Failure to return on or before the expiration of such leave or upon the cancellation or revocation thereof by the director shall be considered as separation from the service, and the nature of the separation action shall be determined on the merits of the case unless it is shown to the satisfaction of the appointing officer and the director that failure to report was excusable. Leave of absence because of illness or for educational purposes may be extended up to 2 years on a year to year basis on the recommendation of the appointing officer and the approval of the director.

(c) *Summer leave.* Classified employes whose services are not required at institutions during a summer recess shall be considered to be on leave of absence without pay.

(2) Rights Upon Return From Leave Of Absence. A properly executed leave of absence without pay shall accord the employe the right to be returned to his position or one of like nature on the expiration thereof or sooner if agreeable to the appointing officer, except that if the position has been abolished through legislation or material reorganization of the department, the employe shall be given consideration for any other position of similar grade and class which in the opinion of the director does not require qualifications substantially higher than or different from those of the position previously held, and if there be no such position, the layoff provisions of the law and these rules shall apply. If it is found necessary to fill the position during the interim, the new employe shall vacate the position upon the return of the absent employe subject to layoff, transfer, or demotion rights earned under the law and these rules. Such leaves without pay shall not operate to interrupt the seniority or salary advancement consideration, or cancel accumulated sick leave of the absent employe. Holidays or other non-work days immediately pre-

ceding the employe's return to duty, shall be counted as part of such absence.

(3) Absence Without Leave. Any absence of an employe that is not authorized under these rules shall be considered as an absence without leave. Such absence may be considered as a resignation or may be grounds for disciplinary action. Any employe who is separated from the service on the basis of absence without leave may thereby be deemed to have forfeited his reinstatement eligibility.

Pers 18.06 LEAVE WITH PAY, INJURY.

Continuing salaries to certain employes unable to work due to injuries incurred in line of duty in hazardous employments. See sections 16.31, Wis. Stats. and Pers 5.05. Each period of absence shall be subject to the approval of the appointing officer and he may require the employe to submit a medical certificate to cover each such period.

Pers 18.07 HOLIDAYS.

Legal Holidays. January 1; May 30; July 4; the first Monday in September; the fourth Thursday in November or the day appointed by the Governor as a day of thanksgiving; December 25; the day following if January 1, May 30, July 4 or December 25 falls on Sunday; afternoon on Good Friday; the afternoons of December 24 and 31. In order to carry out the intent of subsection 16.275 (6)(a) and (an), Wis. Stats., to grant employes 7½ days annually for holidays, an employe shall be granted equivalent compensatory time off when:

(1) The employe is required to work on a holiday or

(2) A holiday falls on his regularly scheduled day off. When such compensatory time off shall be granted is discretionary with the appointing officer, and he may permit such time to be anticipated and used on the same basis as vacation. The appointing officer in determining schedules for such time off shall respect the wishes of the eligible employes as to the time of taking such time off insofar as the needs of the service will permit. See subsection Pers 18.02 (6).

Pers 18.08 MILITARY SERVICE.

(1) National Guard, State Guard, Reserve Corps. Attendance at duly ordered military and naval schools, field camps of instruction and naval exercises. See subsection 16.275 (4), Wis. Stats.

(2) Active Service. See section 16.276, Wis. Stats.

Pers 18.09 CIVILIAN SERVICE.

Service during a period officially proclaimed to be a national emergency or limited national emergency. See subsections 16.276 (1) and 16.276 (2)(b), Wis. Stats.

Pers 18.10 JURY SERVICE.

See subsection 16.275 (5), Wis. Stats.

Pers 18.11 UNCLASSIFIED SERVICE.

Employes in the classified service appointed to positions in the unclassified service. See section 16.274, Wis. Stats.

Pers. 18.12 WORKMEN'S COMPENSATION.

Relation to the use of sick leave and vacation. See section Pers 5.06.

PERS 19

Pers 19.01 DEFINITION.

Seniority is an employe's total applicable service at any level with the state, applied as a factor in determining rank in promotions and layoffs.

Pers 19.02 LIMITATIONS AND INCLUSIONS.

(1) Applicable Service For Computation.

(a) All permanent employment in the classified service.

(b) All seasonal employment in the classified service which has resulted in consecutive seasonal reinstatements, and seasonal employment followed by permanent employment within the reinstatement period of 3 years.

(c) Time of military leave; or leave while serving in an unclassified position as provided in section 16.274, Wis. Stats.

(d) Employment during a probationary period, provided permanent status has resulted.

(2) Non-Applicable Service.

(a) Employment in a limited term position or while serving an emergency or provisional appointment.

(b) Employment in an unclassified position except as provided in section 16.274, Wis. Stats.

(c) Time spent on leaves other than military leave, except when in the judgment of the director the leaves are of direct benefit to state service.

PERS 20

Pers 20.01 DEFINITION OF STATE TRAINING PROGRAMS.

State Training Programs include all formal and informal, off-the-job and on-the-job developmental activities and devices that are conducted as part of, or associated with state employment, which increase the knowledge, skill and general competency of employes, and which aid in establishing favorable employe attitudes and work habits.

Pers 20.02 TRAINING POLICY.

Recognizing that training is an integral part of the management process, the director, in order to implement the state training policy as set forth in subsection 16.21 (1), Wis. Stats., shall assist operating agencies by promoting, formulating, conducting, coordinating and assisting in state training programs to the end that transaction of the state's business will be performed effectively, efficiently, and with the greatest economy to the state through satisfied employes.

Pers 20.03 TRAINEE CLASSIFICATION.

(1) Use of Trainee Classification. The director may authorize the use of the trainee classification when:

(a) Qualified applicants are not available for the objective classification, or

(b) Filling the position as a trainee will be more appropriate than appointment in the objective classification, or

(c) Special conditions exist as part of the provisions for the use of gifts, grants, bequests, or other devices from individuals, partnerships, associations, or corporations for providing employes with the training and/or experience to meet the qualifications of the objective classification.

(2) Trainee Salary Range. The salary range for a position classified as trainee shall be subject to the approval of the director.

(a) The minimum of such range shall be comparable to the minimum salaries of classifications having similar qualifications.

(b) The maximum of such range shall not exceed the minimum salary of the objective classification for which the employe is being trained.

(3) Salary of a Trainee. The starting salary rate and salary increases during the training program shall be subject to the approval of the director. Appointment may be made at that point in the salary range commensurate with previous training and/or experience.

(4) Salary of a Permanent Employe Appointed As Trainee. This subsection applies to the salary of an employe appointed to fill a vacancy in a trainee position either in the same department or in a different department. The term *step* as used in this subsection refers to the salary step amount in the salary schedule range from which the employe moves when appointed to the trainee position.

(a) When the employe's present salary rate is above the maximum of the trainee salary range, his rate in the trainee salary range shall be at the maximum of such range.

(b) When the employe's present salary rate is less than one step below the minimum of the trainee salary range, or is above the minimum but less than the maximum of such range, his present rate shall be increased by an amount equal to one step, or determined in accordance with subsection Pers 20.03 (3), whichever is higher.

(c) When the employe's present rate is more than one step below the minimum of the trainee salary range, his present rate shall be increased to the minimum of the

trainee salary range, or determined in accordance with subsection Pers 20.03 (3).

(5) Status And Rights. A trainee shall be on a probationary period for the duration of his training program as provided in subsection 16.22 (5), Wis. Stats.

(a) However, the appointment of a permanent employe to a trainee position within the department shall, as provided in subsection 16.22 (1), Wis. Stats., be deemed a change in job status, and shall not affect the permanent status and rights previously acquired within such department. At any time during the probationary period the appointing officer may remove and restore the employe to his former position and salary without the right of appeal. Any other removal, suspension without pay, or discharge during the probationary period shall be subject to subsection 16.24 (1), Wis. Stats. Upon successful completion of the training program the trainee shall assume the class title of the objective classification. He shall serve a probationary period in the objective classification.

(b) A permanent employe appointed to a trainee position in another department, or a person entering a trainee position on an original appointment, may be separated without the right of appeal, at the discretion of the appointing officer, at any time prior to achieving permanent status in the objective class. Upon successful completion of the training program the trainee shall assume the class title of the objective classification. He shall serve a probationary period in the objective classification.

(c) The appointment of an employe who has qualified at the objective classification following completion of the training program shall not be considered a promotion for salary purposes provided in subsection 16.105 (2) (dx), Wis. Stats., and the initial rate to be paid in the objective class shall be the minimum of the salary range for such class. However, if an employe earned a higher rate of pay in a class in which he had permanent status immediately prior to entry in the training program, the appointing officer may set the employe's salary at any rate in the salary range for the objective class, not to exceed his previously earned rate. Determination of this rate shall be made at time of appointment in the objective class and reported to the director. In cases where the objective class for which the employe is being trained is in the same or lower salary range than the class of the employe's position in which he had permanent status immediately prior to entry in the training program, no probationary increase shall be given upon completion of the probationary period.

(6) Approval and Reporting. No person shall be appointed to a trainee position prior to approval of the written training program by the director. The written training agreement shall be submitted to the director at the time of appoinment.

Pers 20.04 PERFORMANCE DEVELOPMENT.

A task and performance review shall be made at least once each year by the appointing officer for and with each permanent classified employe for the purpose of helping each employe maintain and surpass minimum performance standards of all the tasks of his position.

PERS 21

Pers 21.01 SUBMISSION OF RESIGNATION.

Every effort shall be made by an appointing officer to obtain a written resignation from a permanent employe who voluntarily leaves the service. Such resignation shall contain the reasons therefore and be submitted in duplicate to the appointing officer not less than 15 calendar days prior to the effective date. The appointing officer will retain the original of such resignation and shall transmit the duplicate to the bureau. Except for extenuating circumstances, failure of an employe to submit such resignation shall result in forfeiture of reinstatement eligibility.

Pers 21.02 WRITTEN RESIGNATION NOT REQUIRED.

Separation of emergency, provisional, limited term or seasonal employes from the service at the end of such employment period shall be deemed to constitute normal or automatic separations and therefore need not be accompanied by written resignations.

PERS 22

Pers 22.01 PURPOSE.

This layoff procedure adopted pursuant to subsection 16.24 (2), Wis. Stats., is intended to give due consideration to the 2 essential factors which should determine a permanent employe's right to be retained in the service—length of service and efficiency, considered in such a way as to be fair to all employes and to retain for the state service its most effective and efficient personnel.

Pers 22.02 LIMITATIONS.

A permanent employe in the classified service shall not be laid off from any position while any limited term, emergency, provisional or probationary employe is continued in a position of the same class or equivalent class in the department or other layoff unit involved.

Pers 22.03 LAYOFF BY DEPARTMENTS.

The normal layoff procedure shall be by departments, provided, however, the board, upon the application of the appointing officer and after taking into consideration the recommendation of the director, may authorize the use of well established functional, organizational, or geographical units within the employing department.

Pers 22.04 PROCEDURE FOR MAKING LAYOFFS.

(1) Seniority and Efficiency. Whenever it becomes necessary for an appointing officer to lay off an employe in the classified service as a result of shortage or stoppage of work or funds, functional reorganizations, or the abolishing of a position, he shall do so by classes in accordance with seniority and efficiency, except where a reduction in force involves all employes in an employing unit.

(2) Assignment of Seniority Credit. The seniority credit of all employes in the class and organization unit in which layoff is to be made shall be computed on the basis of length of service as set forth in subsection Pers 19.02 (1). A seniority ranking of all such employes shall be made accordingly, with any resulting tie cases to be ranked (relative to each other) according to their total length of service in the class.

(3) Number Considered for Layoff. Within the total number of employes in the given class and layoff unit, the group considered for layoff shall consist of those with the lowest seniority ranking, as follows: That group shall number 3 employes, where only one employe is being laid off. In all other cases, that group shall number double the number of positions to be vacated; except that it shall include no greater number of employes with 5 or more years of seniority credit (under Pers 19.02 (1)) than is necessary to consider for layoff 2 more employes than there are positions to be vacated.

(4) Ranking By Performance. All employes in the group thus to be considered for layoff shall be ranked by the appointing officer according to their relative performance in the given class and unit. Such ranking shall be based on recent and comparable standards of performance.

(5) Resulting Layoffs. The relative performance ranking of all employes within the group thus considered shall determine which employes are laid off, so that the most efficient employes will be retained.

Pers 22.05 DEMOTION IN LIEU OF SEPARATION.

In the event that the services of a permanent employe are about to be terminated in a given class as a result of reduction in force, such employe shall be entitled to a position in the same department in a lower class in the series or to transfer to a class in another series in which his training and experience as a state employe have qualified him,

provided that the order of layoff as set forth in the law and these rules permits.

Pers 22.06 REDUCTION IN PAY OR POSITION.

The appointing officer may, in lieu of layoff, demote or reduce an employe in pay or position.

Pers 22.07 WRITTEN NOTICE PRIOR TO LAYOFF.

Any employe affected by such layoff or reduction in pay or position shall be given written notice, not less than 15 calendar days prior to the effecitve date thereof, and upon written request, filed within 10 calendar days from the effective date of the action, shall be entitled to an appeal from such action to the board.

Pers 22.08 REINSTATEMENT OF PROMOTED OR TRANSFERRED EMPLOYES.

If an employe, promoted or transferred from one appointing officer to another, is laid off due to lack of work or funds while serving a probationary period in the new position, he may be reinstated to the position he vacated, or one of like nature, under the first appointing officer if such position is available.

PERS 23

Pers 23.01 PROVISIONS.

Disciplinary action against a permanent employe by an appointing officer or his authorized representative shall be taken in accordance with the provisions of subsection 16.24 (1), Wis. Stats. The appointing officer or his authorized representative shall at the time of such action supply the employe involved a statement in writing as provided in subsection 16.24 (1), Wis. Stats. setting forth his reason therefore, the time limitations thereof, and the employe's right of appeal. A copy of such notice to the employe shall be filed with the director within 5 calendar days of the effective date thereof.

Pers 23.02 RIGHT OF APPEAL.

When disciplinary action has been taken against a permanent employe in accordance with section Pers 23.01 above and the employe appeals in writing to the board within 10 calendar days of the effective date of such action, the board shall hold a public hearing thereon within 20 calendar days after the receipt of such appeal. Written notice of such hearing shall be given by the director to the person making the appeal and to the appointing officer. If conditions over which the board, the appellant, or the defending department has no control make it impossible to complete the hearing before the expiration of 30 calendar days, the board may continue the same until it is prepared to make final decision as required in subsection 16.24 (1)(b), Wis. Stats.

Pers 23.03

Appointing authority may suspend an employe from duty with pay, for an indefinite period of time, pending investigation and trial of alleged charges against such employe.

PERS 24

Pers 24.01 POLICY STATEMENT.

In order to provide a guide for employes and administrators in the formation of a responsible, loyal and efficient public service, the board may after a public hearing adopt a code of ethics applicable to all employes of the classified service.

Pers 24.02 DEPARTMENTAL SUPPLEMENTS.

Appointing officers may adopt supplementary provisions to the code relating to their department. Such supplements and revisions shall be filed with the board before becoming effective.

Pers 24.03 FORCE AND EFFECT.

The contents of the statewide code and departmental supplements shall be made known to all classified employes by their appointing officer. A disregard for the provisions of any such code may be considered as a basis for disciplinary action.

PERS 25

Pers 25.01 ESTABLISHMENT OF PROCEDURE.

Recognizing the value of a formal grievance procedure in a sound management program, each department shall, as required by the director, establish a written grievance procedure. Such procedure shall meet standards established by the director and approved by the board.

Pers 25.02 LIMITATION OF APPLICATION.

Grievance procedures established as provided in this section will not be used in lieu of procedures established elsewhere for actions described in subsections 16.05 (1) or 16.24 (1), Wis. Stats.

PERS 26

Pers 26.01 SCOPE.

The director shall prescribe such standards as may be necessary to carry out the policy expressed in section 16.01, Wis. Stats. for the development and promotion of sound personnel management programs, including, but not limited by enumeration, such areas as employment, absences, training, and performance rating.

Pers 26.02 DEPARTMENTS TO COOPERATE.

Appointing officers shall provide such information and assistance as the director may require for review and evaluation of the state's personnel management and merit system programs.

PERS 27

Pers 27.01 ESTABLISHMENT AND DEFINITION.

The classification titled "Wisconsin Career Candidate" is established pursuant to Section 16.32, Wis. Stats., and these rules whereby college seniors and recent graduates are recruited and examined to establish eligibility for certification from the "Wisconsin Career Candidate" list for entry professional classes in the state classified service.

Under provisions of 16.32 (6) the director shall explore and implement the broad use of a variety of personnel and selection processes to develop an increasingly effective college recruitment and selection program.

Pers 27.02 PROVISIONS.

In accordance with the purpose expressed above and with the legislative intent expressed in Section 16.32, Wis. Stats., the use of this procedure shall be subject to the following provisions:

(1) Scope. The director shall establish and maintain a Wisconsin Career Candidate employment list. Such list may be used to certify eligibles for appointments to the classified service in those positions or classifications as designated by the director.

(2) Eligibility. The competitive examinations shall be free and open to all seniors and recent graduates of our institutions of higher learning as well as from other sources, and who are citizens of the United States regardless of residence.

(3) Examinations. To insure the employment of young men and women with sound academic background, a strong desire to acquire knowledge, an aptitude for the public service, and a strong interest in government, examinations for eligibility shall be administered to determine the merit and fitness of these persons. Such examinations shall be conducted annually not later than March 1 at convenient sites including college campuses in Wisconsin and at such other times as required to fill the needs of the service.

(4) Certifications. To insure employment of Wisconsin Career Candidates certification and selection may be made from among any applicants who have attained eligibility. In those classifications which require specialized training selective certification may be made from among those eligibles who possess the special qualifications. The director shall establish ranking or category procedures to meet the needs of effective certification in specific classifications.

(5) Appointments. Appointment from the Wisconsin Career Candidate list to a position in the classified service shall be considered as an appointment made in accordance with the provisions of subsection 16.18 (2), Wis. Stats. Career service immediately following appointment shall conform with all provisions of Sections 16.01 to 16.30 Wis. Stats. and rules of the Personnel Board.

BY-LAWS 1-13-64

University of Wisconsin-Milwaukee Local Number 82,
Wisconsin State, County and Municipal Employees

This local shall be governed by the suggested constitution for local unions as prescribed by the American Federation of State, County and Municipal Employees, AFL-CIO. The following laws shall be employed to implement the constitution.

Article 1
Name

The name of this organization shall be: University of Wisconsin-Milwaukee, Local Number 82 of the American Federation of State, County and Municipal Employees, AFL-CIO.

Article II
Officers

Section 1. The officers of this local shall be a president, a vice president, a secretary, a treasurer and three executive board members. These seven members shall constitute the executive board of the local.

Section 2. Nominations: Nominations shall be made at the regular April meeting of the local. Any member may nominate any other member in good standing and otherwise eligible to hold office in this local. Nominations shall be made in conformance with the regular rules of order for all meetings and the final authority shall be "Roberts Rules of Order." No member shall be considered nominated unless or until he has given his consent to be nominated for office in this local.

Section 3. Eligibility: Any member considered for nomination to an office in this local must have been a member in good standing for one year prior to the nominating meeting.

Section 4. Election: After the nominations have been made at the regular April meeting, a ballot containing all the names of those nominated shall be made up. Nominees shall then be elected and installed at the regular May meeting. Voting shall be by secret ballot. In the event of a mail election, ballots will be mailed to all eligible members two weeks prior to the May meeting and will be received by the local up to the time of the regular May meeting. They will then be opened in the presence of all members attending the meeting, counted and tabulated. Those nominees receiving a majority of the votes will be considered elected.

Section 5. Installation: Officers shall be installed at the regular May meetingof the local.

Section 6. Terms of office: The terms of all officers shall be one year except that the trustees (three members) shall be elected as follows: One trustee for three years, one trustee for two years, and one trustee for one year. After the first year one trustee shall be elected for a three year term each year as the other terms expire.

Article III
Meetings

Section 1. Meetings, Regular: Regular meetings shall be held monthly. Time and place of the meetings shall be set by the local.

Section 2. Special meetings: Special meetings may be called subject to the provisions of the constitution.

Section 3. Executive Board Meetings: Executive Board meetings shall be at the call of the president or at such times as seem expedient to a majority of the members of the board.

Article IV
Membership and Dues

Section 1. New Members: New members may be accepted at the time of employment. Upom request of a member who has been dismissed on or before the end of his probationary period, the initiation fee and dues paid to the date of termination shall be refunded. However, any member who voluntarily terminates his employment on or before the end of the probationary period shall not be entitled to a refund of such initiation fee and dues."

Section 2. Dues: The dues to this local union shall not be less than the minimum as provided in the International Constitution. The local union may set the dues at a higher rate provided proper notice is given to the members prior to the meeting at which a vote is to be taken on the increase. A two thirds vote of those present and voting shall be required before such dues increase can be adopted.

Section 3. Initiation Fees and Reinstatement: Initiation fees and reinstatement fees shall be not less than $3.00. One ($1.00) of this amount will be paid to the member signing up the new member. $1.50 of the reinstatement or initiation fee shall go to the International Union as provided in the constitution, and the remainder shall be deposited in the local treasury.

Article V
Fiscal and Financial

Section 1. Depository and Signing Checks: The funds of this local shall be deposited in a bank authorized by the local. All checks shall be signed by the treasurer and countersigned by the president. In the absence of the president, the secretary shall be authorized to countersign checks.

Section 2. Audit: The books and financial records of this local shall be audited by the trustees as provided in the constitution.

Section 3. Salaries and Expenses: Salaries to officers and expenses of the local union must be approved by the local, except that per capita taxes and other fixed expenses of the organization shall be paid as provided in the constitution. The payment to a retiring member shall be $20.00. Upon illness of a member, a get well card will be sent. If the member uses up all his sick leave and is still unable to return to work, a voluntary contribution will be taken up. (By union members only). Upon the death of a member or his/her spouse, a gift or gratuity of $7.50 shall be paid if the amountin the treasurery permits.

Article VI
Quorum

Section 1. Quorum: The quorum for any regular meeting or special meeting shall be seven (7) members.

Section 2. Quorum: The quorum for board meetings shall be a majority of the executive board members.

Article VII
Committees

Section 1. Standing and Special Committees: The president shall appoint standing and special committees subject to the approval of the executive board and/or local union.

Section 2. Grievance Committees: The executive board shall constitute the grievance committee of the local union. Grievances shall be processed in accordance with article VIII of these by-laws.

Section 3. Stewards: Stewards may be appointed by the president of the local union with the approval of the executive board. The individuals appointed stewards must give their consent to act as stewards.

Section 4. Members of working units may elect stewards to represent them. Stewards shall be approved by the Executive Board.

Article VIII
Grievances

Section 1. Grievances: Any member shall be entitled to assistance in settlement of employee problems or grievances. He shall first present it to the president of the local. The steward or the president, or a board member designated by the president, shall assist an aggrieved member in any discussion with the immediate supervisor. If a satisfactory settlement is not reached at the primary step, then the grievance shall be reduced to writing and presented to the grievance committee for consideration and action. In the handling of all grievances the committee shall follow established lines of authority and procedures of the University of Wisconsin-Milwaukee.

Section 2. Group Grievances: Group grievances must be reduced to writing signed by the aggrieved members and presented to the grievance committee (Executive Board). The committee shall consider such grievances and take whatever action is necessary or advisable, being sure to follow established lines of authority in attempting to reach solutions; except that if a grievance is of sufficient magnitude, it may be taken directly to the superintendent for settlement.

Section 3. Assistance from the council (WSEA): Any grievance or personnel problem which must be taken beyond the superintendent, and/or department head, may be submitted to the Wisconsin State Employees Association for settlement provided that the local union and/or the executive board authorize such action. This does not preclude representatives of the WSEA from assisting with the settlement of a problem if it is necessary to have discussions with the superintendent or department head.

For grievances toward supervisors, regular procedures will be followed.

Article IX
Amendments to By-Laws

Section 1. Amendments to these by-laws may be made at a regularly scheduled meeting by a majority of the members present, provided that thirty days notice is given to the membership prior to the meeting at which such amendments are to be acted upon.

Amendment Number I

The first time a member resigns from the local and he applies for reinstatement he forfeits the right of presenting a grievance until he is in good standing for six months. The second time he does this he forfeits the right for 1 year and one year thereafter every time he resings his membership.

CONSTITUTION
and
BY-LAWS

THE WISCONSIN STATE EMPLOYEES ASSOCIATION

Wisconsin State Employees Council #24

American Federation of State, County,
and Municipal Employees

(AFL - CIO)

As Amended in Convention

September, 1964

CONSTITUTION
of the
WISCONSIN STATE EMPLOYEES ASSOCIATION

ARTICLE I - NAME

The name of this association shall be the Wisconsin State Employees Association (Wisconsin State Employees Council #24).

ARTICLE II - OBJECTS AND METHODS

Section 1. Objects. The objects of this association shall be:

a) To co-ordinate the activities and statewide legislative programs of state employee local unions of the AFSCME.
b) To co-operate in giving efficient service to the state.
c) To promote efficiency in public service generally.
d) To extend and uphold the principle of merit and fitness in public employment.
e) To foster and promote continued co-operation between state departments to the end that overlapping and duplication of service and effort may be reduced to a minimum.
f) To advance the general, social, and economic welfare of the employees of the state.
g) To promote organization of workers generally and of public employees in particular.
h) To convey to the people of this state the spirit and the conviction of the value of state service.

Section 2. Methods. The methods of obtaining the objects shall be by petitioning, by creating and fostering sentiment favorable to proposed reforms, by co-operating with state officials, by promoting legislation, and by other lawful means.

ARTICLE III - AFFILIATION

Section 1. This association shall be affiliated with the AFSCME as a state council of state employees locals.

ARTICLE IV - MEMBERSHIP AND PER CAPITA TAX

Section 1. Membership. Any local union of the AFSCME composed exclusively of state employees shall be eligible to membership.

Section 2. Per capita tax. Per capita tax due the association from each member local union shall be ninety cents per month per member.

Section 3. Per capita tax - When payable. Per capita tax from member locals shall be payable not later than the fifteenth day of the following month. Locals failing to pay the per capita tax for more than six months shall be suspended from membership, and may be reinstated only on the payment of all arrears or upon such conditions as the executive board of the Association shall determine. Per capita tax to the Association shall be paid on the basis of the monthly units of dues received by the local during the month.

Section 4. Application for Membership. Application for membership shall be made on the prescribed application form adopted by the association.

Section 5. Action on Application. Membership applications received shall be presented by the recording secretary at any meeting of the executive board which is duly authorized to accept, defer, or reject any application subject to appeal to the convention.

ARTICLE V - CONVENTION

Section 1. How Formed. The convention of the association shall be formed by delegates from the member locals. A quorum for the transaction of business shall consist of delegates from not less than one-third of the member locals in good standing.

Section 2. Meetings, Regular. The convention shall meet annually at 9:00 A. M. on a Saturday in September, to be selected by the executive board, and remain in session until the business of the convention shall have been completed.

Section 3. Meetings, Special. Special meetings may be held at the call of the executive board. One-third or more member locals may at any time require a special meeting by filing a petition therefor with the president, which petition shall name a date for the meeting which shall be no sooner than fourteen days subsequent to the date of so filing, and the president shall issue the call to all member locals.

Section 4. Delegates, How Selected. Votes. Delegates to the convention shall be members of their locals in good standing. Delegates shall be elected by their respective locals and shall receive a majority of the votes of all members present at the meeting. The basis of voting representation in conventions shall be determined from the average per capita tax paid to the Wisconsin State Employees Association by each local thereof for the year from the first day of July to the last day of June inclusive preceding the convention. Locals shall be entitled to delegates and votes on the basis of membership as follows: 100 or less, two delegates and two votes; 101 to 200, three delegates and three votes; 201 to 350, four delegates and four votes; 351 to 550, five delegates and five votes; 551 to 800, six delegates and six votes; 801 to 1200, seven delegates and seven votes, and over 1200, eight delegates and eight votes. No local shall be entitled to representation in the convention unless all per capita tax due the association as of sixty days prior to the convention be paid in full before the opening of the convention. No local shall be represented in conventions by proxy. A delegate must be a

resident member of the local he or she represents; provided, that two or more locals may unite in sending a delegate to the convention, such delegate to be a member in good standing of one of such locals. He or she shall be entitled to the vote to which the locals he represents are entitled in accordance with this section, provided, that no delegate shall represent more than three locals.

Section 5. Powers and Duties. All sovereign powers and authority of the association shall originate in the convention. It shall determine all matters of policy and may delegate such authority as it may determine.

Section 6. Any member in good standing of any member local in good standing of the association shall have the right to be heard at any meeting of the convention on being recognized by the chair.

Section 7. Expenses of Delegates. The association shall not be responsible for expenses of delegates to conventions of the association.

ARTICLE VI - OFFICERS

Section 1. Election of Officers. The officers of this association shall be a president, a first vice-president, a second vice-president, and a third vice-president, a treasurer, a recording secretary, and three trustees. These officers shall constitute the executive board. These officers, except the trustees, shall be elected and installed at the regular annual meeting of the convention. Trustees shall be elected for a term of three years each at the regular annual meeting of the convention, except that at the first election of trustees one shall be elected for a term of three years, one shall be elected for a term of two years, and one for a term of one year. Not more than one member from a local shall have membership on the executive board. Members of the executive board by virtue of their office shall be entitled to a voice without vote in the convention unless they are elected delegates. Nothing herein shall deprive the president of his prerogative to cast the deciding vote in case of a tie vote.

Section 2. Nominations. Nominations of officers may be made by a nominating committee appointed as are other convention committees. Nominations may also be offered from the floor.

Section 3. Election. a) Officers shall be elected by secret ballot on a majority vote of the delegates present at the regular annual meeting of the convention. When more than two candidates are nominated for one office and a majority vote is not obtained, the candidate receiving the lowest number of votes shall be dropped until a majority vote is obtained. In the event there is but one candidate nominated for office such candidate may be elected by acclamation. b) Delegates to conventions of the American Federation of State, County, and Municipal Employees and the Wisconsin State AFL-CIO, shall be elected by the convention of the association immediately preceding the AFSCME and Wisconsin State AFL-CIO conventions in the years in which conventions are held.

Section 4. Eligibility for Office. No member shall be eligible for office unless he is an employee of the State of Wisconsin and unless he shall have been a member in good standing of his local for at least one year next preceding his election. To retain such eligibility he and his local union must continue in good standing.

Section 5. Filling of Vacancies. Vacancies in office shall be filled by a majority vote of the executive board. Such appointees shall serve until their successors shall have been elected by the convention next following their appointment and shall qualify.

Section 6. Expenses. Expenses incurred by officers and committees of this association must be authorized or approved by the executive board.

Section 7. Pay to Officers. No elected officer of this association shall be paid any salary or wages for service rendered in his elective capacity, but such officer may be selected by the executive board to serve in other capacities for which compensation may be allowed.

ARTICLE VII - DUTIES OF OFFICERS AND COMMITTEES

Section 1. Duties of the President. The president shall preside at all meetings of the executive board and at all meetings of the convention, and shall be a member ex-officio of all committees. He shall sign all authorized orders on the treasurer and counter-sign all checks drawn against the funds of the association. At the conclusion of his term he shall submit a report to the association regarding the progress and standing of the association and regarding his official acts during his term of office.

Section 2. Duties of First Vice-President. In the absence of the president or his inability to serve, the first vice-president shall preside at all meetings and perform all duties otherwise performed by the president.

Section 3. Duties of the Treasurer. The treasurer shall receive and take charge of all money, property, and securities of the association. He shall deposit all money so received to the credit of the association in a bank or banks selected by the executive board. All disbursements shall be made by check. All checks must be signed by the treasurer and countersigned by the president. The treasurer shall keep an accurate record of receipts and disbursements and shall publish a semi-annual report thereon. He shall submit his books and records for audit when required by the association. He shall at the expense of the association and through the American Federation of State, County, and Municipal Employees give a surety bond for an amount to be fixed by the executive board.

Section 4. Duties of Recording Secretary. The recording secretary shall keep a record of the proceedings of the executive board and the meetings of the convention, and shall perform such duties as may be required by the officers of the association.

Section 5. Duties of the Executive Board. The executive board shall be the governing body of this association when the convention is not in session. All matters affecting the policies, aims, and means of accomplishing the purposes of this association not specifically provided for in this constitution or by action of the convention at a regular or special meeting shall be decided by the executive board, which shall meet at the call of the president or at such times as seem expedient to a majority of the members thereof. Except as may be directed by the convention, the executive board shall appoint standing committees as specified herein. The executive board shall provide for the editing and management of an official publication to be known as the Wisconsin State Employee which shall be the official organ of this organization, and may allot such funds as it deems necessary from the treasury of the association for this purpose. The concurrence of a majority of the executive board present at any meeting of the board shall be necessary for the transaction of business. A majority of the members of the board shall constitute a quorum.

Section 6. Annual Audit. The executive board shall as of April 1 of each year authorize the preparation of an annual audit of all accounts of the Association and the Magazine by a certified public accountant to be selected by the board. Such audit report shall be sent to each member local and shall be submitted to the next regular convention of the Association. Additional audits may be made by order of the executive board of the convention.

Section 7. Duties of Special Committees. Special and standing committees shall perform such duties as are assigned to them.

Section 8. Local Officers' Meeting. The executive board shall convene a meeting of the officers of member locals at 9:00 A. M. on a Saturday in April of each year. The purpose of such meeting shall be to discuss problems of mutual interest that may arise between conventions and to advise the executive board thereon. The function of such local officers' meetings shall be advisory only. Expenses of local officers attending such meetings shall be borne by the local they represent.

Section 9. Executive Secretary may countersign. In the absence of the president, the executive secretary may countersign checks drawn against the funds of the association.

ARTICLE VIII - REVENUES

Section 1. Source of Revenue. The chief source of revenue of this association shall be per capita tax as provided in Article IV, Section 2.

Section 2. Special Assessments Restricted. No special assessments on member locals shall be levied except by a two-thirds vote of the convention and shall not exceed in number one in any one year. No vote shall be taken on any special assessment unless it shall have been presented at the meeting immediately prior to the one at which the special assessment is to be voted upon. Any special assessment shall be used solely for the promotion of the welfare of the association.

ARTICLE IX - AMENDMENTS

Section 1. This constitution may be amended by either of the two following methods:

a) Proposed amendments to this constitution shall be submitted in writing to the executive board at least thirty days prior to the regular or special meeting of the convention at which a vote is to be taken. The proposed amendments and the recommendations of the executive board shall be submitted to the convention. A majority of the delegates present at the convention shall be necessary for adoption.

b) A proposed amendment which is not submitted to the executive board at least 30 days prior to the convening of the regular or special convention may be initiated on the floor of the convention upon the consent of a majority of the delegates present at the convention. Such an amendment, however, shall require a two-thirds vote of the delegates present for passage.

Section 2. This constitution and by-laws and all amendments thereto shall be subject to ratification by the American Federation of State, County, and Municipal Employees.

BY-LAWS

ARTICLE I - STANDING RULES OF THE CONVENTION

Section 1. The order of business at any regular or special meeting of the convention shall be:

1. Report of committee on credentials
2. Appointment of committees
3. Report of committee on rules and order of business
4. Report of executive board
5. Reports of regular committees
6. Unfinished business
7. New business
8. Good and welfare
9. Adjournment

Section 2. The following standing committees shall be appointed by the executive board:

1. Legislation
2. Adjustment

Section 3. All matters not specifically covered by these rules shall be regulated by Roberts Rules of Order (Revised).

ARTICLE II - AMENDMENTS

These by-laws may be amended by a majority vote of members present at any regular or special meeting of the convention, provided that the proposed amendments shall have been submitted to the executive board ten days prior to the date of the meeting.

* * * * *

FACT FINDING UNDER WISCONSIN LAW - TAKEN FROM A STUDY OF PUBLIC EMPLOYEE ORGANIZATIONS

The University of Wisconsin
University Extension
Madison, Wisconsin

$1.00

FACT FINDING UNDER WISCONSIN LAW

James L. Stern
Professor of Economics and Labor Education

and

Edward Krinsky
Research Assistant, Department of Economics

The University of Wisconsin
University Extension
Madison, Wisconsin
1965

65-008 $1.00

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INTRODUCTION AND ACKNOWLEDGEMENTS

The State of Wisconsin passed legislation in 1959 and 1961 that gave municipal employees the "right to be represented by labor organizations. . . in conferences and negotiations. . .on questions of wages, hours and conditions of employment."[1] The 1961 amendments gave the Wisconsin Employment Board (WERB) jurisdiction over the administration of the legislation. WERB responsibilities include the duty to establish the appropriate bargaining unit, to conduct representation elections, to mediate disputes, to prohibit unfair labor practices and to initiate fact finding procedures.

The Wisconsin fact-finding procedure provides for the appointment by the WERB of a fact finder to make written recommendations to the parties when they are deadlocked over the terms of a new agreement. These recommendations are not binding upon the parties. The portions of the statute that are relevant to the fact-finding procedure are quoted below.

> (e) Fact finding. Fact finding may be initiated in the following circumstances: 1. If after a reasonable period of negotiation the parties are deadlocked, either party or the parties jointly may initiate fact finding; 2. Where an employer or union fails or refuses to meet and negotiate in good faith at reasonable times in a bona fide effort to arrive at a settlement.
>
> (f) Same. Upon receipt of a petition to initiate fact finding, the board shall make an investigation and determine whether or not the condition set forth in par. (e) 1 or 2 has been met and shall certify the results of said investigation. If the certification requires that fact finding be initiated, the board shall appoint from a panel established by the board a qualified disinterested person to function as a fact finder.

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1 Chapter 111.70, Sub-Chapter IV, Right of Public Employes to Organize or Join Labor Organizations and Relating to Bargaining in Municipal Employment.

(g) Same. The person appointed as fact finder may establish dates and place of hearings which shall be where feasible in the jurisdiction of the municipality involved. He shall conduct said hearings pursuant to rules established by the board. Upon request, the board shall issue subpoenas for hearings conducted by the fact finder. The fact finder may administer oaths. Upon completion of the hearings, he shall make written findings of fact and recommendations for solution of the dispute and shall cause the same to be served on the municipal employer and the union.

2. Fact finding cases. Only labor unions which have been certified as representative of the employes in the collective bargaining unit or which the employer has recognized as the representative of said employes shall be proper parties in initiating fact finding proceedings. Cost of fact finding proceedings shall be divided equally between said labor organization and the employer.[2]

Twenty fact finding reports were published prior to the April, 1965 date of this analysis. Each of these cases has been digested and several summary tables have been prepared. The detailed digest covers the major contentions of the parties, the rationale for solution chosen by the fact finder, the recommendations of the fact finder and the final settlement agreed upon by the parties. Table I is an index of the fact finding cases showing the names of the participating parties and the fact finders along with the date of the fact finding report. Table II contains a summary of the issues, fact finder's recommendations and settlements in each of the cases. Table III shows the amount of time taken to resolve each impasse. Table IV lists the fact finder's fee and the cost of the transcript.

The digest and tables were prepared by Edward Krinsky under my direction as a part of a study of Collective Bargaining by Public Employees in Wisconsin. Support of this research project by the Graduate School is gratefully acknowledged.

May, 1965

James L. Stern
Professor of Economics
and Labor Education

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[2] Ibid, Section (4)

Table I - Index of Fact Finding Cases

DIGEST	EMPLOYER	UNION	FACT FINDER	DATE OF FACT FINDER'S REPORT
No. 1	Town of Preble	Local #75 Teamsters	R. C. Seitz	October 15, 1962
No. 2	City of DePere	Local #678 AFSCME	D. B. Johnson	June 1, 1963
No. 3	Shawano County	Local #1520 AFSCME	E. L. Wingert	October 1, 1963
No. 4	City of Racine	Local #321 Fire Fighters	P. G. Marshall	October 23, 1963
No. 5	Pierce County	Local #556 AFSCME	D. B. Johnson	February 20, 1964
No. 6	City of New Berlin	Local #647 AFSCME	R. C. Seitz	February 25, 1964
No. 7	Barron County	Local #518 AFSCME	D. B. Johnson	March 1, 1964
No. 8 and No. 20	City of Portage	Local #695 Teamsters	R. J. Mueller G. Haferbecker	March 31, 1964 March 16, 1965
No. 9	Green County	Local #226 AFSCME	R. J. Mueller	April 15, 1964
No. 10	City of Eau Claire	Local #696 WFT	E. L. Wingert	May 22, 1964
No. 11	City of Watertown	Local #695 Teamsters	P. G. Marshall	July 20, 1964
No. 12	City of South Milwaukee	Local #883 AFSCME	T. P. Whelan	August 29, 1964
No. 13	Racine County	Deputy Sheriff's Association	R. C. Seitz	September 4, 1964
No. 14	Wood County	Local #334 AFSCME	R. J. Mueller	October 10, 1964

DIGEST	EMPLOYER	UNION	FACT FINDER	DATE OF FACT FINDER'S REPORT
No. 15	Wood County	Local #334 AFSCME	R. J. Mueller	October 10, 1964
No. 16	City of Eau Claire	Local #284 AFSCME; Local #487 Fire Fighters; Professional Policeman's Assn.	D. B. Johnson	November 9, 1964
No. 17	City of Appleton	Local #563 Teamsters	P. G. Marshall	November 20, 1964
No. 18	City of Milwaukee	Garbage Collection Laborers Independent; District Council 48 AFSCME; Fire Fighters Assn.; Policemen's Protective Assn.	N. P. Feinsinger Chm) E. L. Wingert T. C. Seitz	December 14, 1964
No. 19	City of Janesville	Janesville Education Assn.	R. C. Seitz	February 3, 1965
No. 20	(See No. 8)			

Table II - Summary of Issues, Recommendations and Settlements

NUMBER	MAJOR ISSUE	FACT FINDER'S RECOMMENDATION	REASON FOR RECOMMENDATION	RESULT OF FACT FINDING
1	Request for 7¢ hour wage increase, effective 4/1/62	Granted	Ability of Employer to pay	Recommendation accepted
2	1) Request for 42½ to 40 hours reduction	1) Deferred	1) Further exploration necessary	1) Employer refused to consider the matter
	2) Request for 7¢ hour wage increase	2) Granted	2) Wage comparisons show it to to be warranted	2) Employer refused to consider the matter
	3) Request by Employer to eliminate Sick Leave Provision	3) Denied	3) Operating policy can be modified without eliminating the provision	3) Provision was maintained
3	1) Request for 20¢ hour wage increase	1) 15¢ hour wage increase	1) Ability of Employer to pay	1) 12¢ hour increase
	2) Request for 50 to 45 hours reduction	2) Granted	2) Hours comparisons show it to be warranted	2) Recommendation accepted in 2 steps
	3) Request for Employer-paid Hospital insurance	3) Deferred	3) Granting request would give preferred status to these employees vis-a-vis others employed by the County	3) No action taken
	4) Request for impartial arbitration of unresolved grievances	4) Granted	4) Essential to good labor relations	4) No action taken
	5) Request for written contract	5) Granted	5) Essential to good labor relations	5) Recommendation accepted
4	Request for 67 to 56 hours reduction	Granted	Hours comparisons show it to be warranted	Reduction to 63 hours agreed to in following year's negotiations

Table II - Summary of Issues, Recommendations and Settlements - Cont'd

NUMBER	MAJOR ISSUE	FACT FINDER'S RECOMMENDATION	REASON FOR RECOMMENDATION	RESULT OF FACT FINDING
5	Request for 20¢ hour wage increase	10¢ hour wage increase	Wage comparisons show it to be warranted	Recommendation accepted after employees went on strike
6	1) Request for guaranteed wage	1) Deferred	1) Need for further evaluation of ability to pay	1) Employer refused to consider the matter
	2) Request for more information about reasons for discharge of two employees	2) Granted	2) Union has rights to the information as exclusive bargaining agent	2) Employer refused to consider the matter
7	Request for 20¢ hour wage increase	8¢ hour wage increase	Wage comparisons show it to be warranted	Recommendation accepted
8	1) Request for 10¢ hour wage increase	1) 8¢ hour wage increase	1) Wage comparisons show it to be warranted	1) Employer put into effect its original 5¢ offer
	2) Request for fully-paid hospital-surgical insurance	2) Suggested city pay cost of coverage for employees only	2) Prevailing practice in private industry equals or exceeds this amount	2) Employer refused to consider the matter
A N D				
20	1) Request for 8¢ hour wage increase	1) 5¢ hour wage increase	1) Wage comparisons show it to be warranted	1) Employer refused to consider the matter
	2) Request for fully-paid single employee hospital insurance	2) Granted	2) Accepted practice of a great many municipalities; currently being paid for Portage teachers	2) Employer refused to consider the matter
9	1) Request for 25¢ hour wage increase	12¢ hour wage increase	1) Ability of Employer to pay; close differential between hourly and salaried employees	1) Employer did not change its original 5¢ offer

Table II - Summary of Issues, Recommendations and Settlements - Cont'd

NUMBER	MAJOR ISSUE	FACT FINDER'S RECOMMENDATION	REASON FOR RECOMMENDATION	RESULT OF FACT FINDING
9 (cont'd)				
	2) Request that Employer pay health insurance through a different carrier	2) Denied	2) Present plan adequate and not substantially different from alternative plan	Recommendation accepted
10	1) Request for $100 increase for teachers with no college degree	1) Granted for those with 14 years service	1) Bring salaries to within 1% of 12-city median	Recommendation accepted
	2) Request for increase of $100 to minimum and $285 to maximum for teachers with Bachelors degree	2) Increase minimum $100; increase maximum $210	2) Bring salaries to within 1% of 12-city median	2) Minimum increased $300; maximum increased $150
	3) Request for increase of $225 to minimum and $480 to maximum for teachers with Masters degree	3) Increase minimum $175; increase maximum $405	3) Bring salaries to within 1% of 12-city median	3) Minimum increased $300; maximum increased $655
	4) Request for increase of $200 for teachers with dependents	4) $100 increase	4) Bring salaries to within 1% of 12-city median	4) No increase granted
	5) Request for Employer payment of Hospital and Surgical insurance of $119 for family, and $36 for individual insurance	5) Employer should pay $75 for family and nothing for single insurance	5) Bring salaries to within 1% of 12-city median	5) Employer refused to assume any additional payments
	6) Request for $100 annual increase for those with 10 years of service	6) Granted; also, give additional $50 for 20 years	6) Experience should be rewarded	6) No increases granted
	7) Request for retroactivity to beginning of the year	7) Granted	7) January 1, has been customary salary adjustment date in Eau Claire	7) No retroactivity. Increases to be effective 8/1/64. Agreement for $200 across-the-board increase effective 1/1/65

Table II - Summary of Issues, Recommendations and Settlements - Cont'd

NUMBER	MAJOR ISSUE	FACT FINDER'S RECOMMENDATION	REASON FOR RECOMMENDATION	RESULT OF FACT FINDING
11	Request for 15¢ hour wage increase	8¢ hour wage increase retroactive to 1/1/64	Wage comparisons show it to be warranted	No increase granted for 1964. However, 11¢ hour increase for 1965 granted
12	1) Request for 20¢ hour wage increase	1) 7¢/hour wage increase, retroactive to 1/1/64	1) Wage comparisons show it to be warranted	1) Recommendation accepted
	2) Request to restore cost of living formula	2) Denied	2) Both sides agreed earlier to give up the formula	2) Employer refused to consider the matter
	3) Request that Employer increase life insurance coverage	3) Granted; Coverage should be increased from $3000 to $5000 effective 1/1/65	3) Employer had made the offer at one point, in good faith	3) Recommendation accepted
	4) Request that workmen's compensation provision be reduced to writing	4) Granted	4) Prevailing practice in private industry	4) Recommendation accepted
13	Request for wage increases of: $30 for those with less than 1 year service; $17 for those with more than 3 years service	$10 for less than 1 year; $17 for more than 3 years. Also, institute a plan linking wages to educational attainment	Higher wages are needed to attract better-educated recruits	$25 across-the-board increase effective 1/1/65
14	Request for wage increase of $10 for one employee and $30 for four others	Entire request granted, retroactive to 1/1/64	Wage comparisons show it to be warranted	No retroactivity, Increase of $20 for three employees and $35 for one other for November, December, 1964, making all five salaries equal. Across-the-board raise of $16 for 1965

Table - Summary of Issues, Recommendations and Settlements - Cont'd

NUMBER	MAJOR ISSUE	FACT FINDER'S RECOMMENDATION	REASON FOR RECOMMENDATION	RESULT OF FACT FINDING
15	Request for re-employment of discharged employee	Denied	Discharge warranted on basis of employee's total work performance	Recommendation accepted
16	Request for following increases: a) across-the-board wages b) additional increase for firemen c) longevity payments d) length of vacation	Increase totaling 4.3% but excluding item b)	Total is equal to amount warranted by President's guideposts and cost of living index	Employer agreed to the percentage recommended but not the fact finder's allocation of it
17	1) Request for 10¢ hour wage increase	1) 7¢ hour	1) Wage Comparisons show it to be warranted	1) Recommendation accepted
	2) The increase should be retroactive to 1/1/64	2) Granted	2) No reasons for not granting it.	2) Recommendation accepted
18	Large number of requests. Only those indicated in next column were considered important enough to warrant immediate attention	1) Establish Labor Peace Agency		1) Pending
		2) Establish Study Committees		2) Pending
		3) Establish negotiations schedule		3) Recommendation accepted
		4) Have permanent City negotiator		4) Personnel Director and Staff handle City's negotiations
		5) Have closed bargaining sessions in early stages of the bargaining		5) City Attorney ruled that all sessions must be open
		6) Have written one year contract with a reopener provision		6) Written one year agreements with AFSCME and Police
		7) Develop new arbitration and grievance procedure		7) Included in AFSCME contract
		8) City should absorb full single-person insurance, and 1/2 of family insurance in December, 1964 only.		8) Recommendation accepted

Table II - Summary of Issues, Recommendations and Settlements - Cont'd

NUMBER	MAJOR ISSUE	FACT FINDER'S RECOMMENDATION	REASON FOR RECOMMENDATION	RESULT OF FACT FINDING
18 Cont'd		9) Have written seniority practices for Garbage Collectors		9) Pending
		10) Break police out of overall wage classifications		10) Recommendation accepted
		11) Give Fire Fighters 56 hour week by July 1, 1965		11) Recommendation accepted
		12) Give Fire Fighters 10¢ weekend shift differential		12) Pending
19	1) Request for increase of yearly increment of $25	1) $20 increase	1) End salary deterioration. Also, ability of employer to pay	1) Employer agreed to a $10 increment for Bachelors teachers; $5 for Masters teachers
	2) Request for increase of $250 to base of Masters degree teachers	2) Increase base $250	2) End salary deterioration. Also, ability of employer to pay	2) Recommendation accepted
	3) Request for pay for extracurricular duties	3) Granted	3) Improve teacher morale	3) Increased pay was granted only for duty at home football games

Table III - Time Taken to Resolve Impasses

Digest	Petition For Fact Finding	Fact Finding Hearing	Fact Finder's Report	Agreement Reached on	Elapsed Time	Additional Comments
No. 1	6/29/62	9/10/62	10/15/62	11/62	5 mos.	Negotiations began prior to 3/62
No. 2	3/21/63	5/1/63	6/1/63	effective 1/64	9 mos.*	Negotiations began in 9/62. Parties agreed to a stipulation requesting non-binding arbitration in 1/63. After further discussion Union initiated fact finding.
No. 3	2/18/63	9/5/63	10/1/63	1/12/65	23 mos.	Negotiations began in 10/62. Delay between petition and fact finding was caused by Employer - challenge to WERB jurisdiction in Circuit Court.
No. 4	11/26/62	6/11/63	10/23/63	effective 1/64	14 mos.*	Delay between petition and fact finding was caused by Employer - challenge to WERB jurisdiction.
No. 5	9/9/63	1/16/64	2/20/64	5/1/64	8 mos.	Negotiations began in 2/63. 10-day strike before agreement.
No. 6	10/4/63	1/17/64	2/25/64	None		Negotiations began in 8/63
No. 7	9/20/63	2/6/64	3/2/64	4/23/64	7 mos.	Negotiations began in 7/63. Delay between petition and fact finding caused by Employer-challenge to WERB jurisdiction.

Table III - Time Taken to Resolve Impasses - Cont'd

Digest	Petition For Fact Finding	Fact Finding Hearing	Fact Finder's Report	Agreement Reached on	Elapsed Time	Additional Comments
No.8	1/13/64	2/3/64	3/31/64	None		Parties negotiated between 2/63 and 11/63 when impasse occurred.
No. 20	1/8/65	2/5/65	3/16/65	None		Parties negotiated during 1964 including two sessions with a WERB mediator
No. 9	10/28/63	2/17/64	4/15/64	None		Negotiations began in 5/63
No. 10	11/11/63	1/9/64	5/22/64	6/64	7 mos.	Negotiations took place for several months prior to petition
No. 11	11/11/63	2/11/64	7/20/64	11/64	12 mos.	Negotiations began in 8/63
No. 12	10/28/63	4/15/64 5/4/64 5/20/64	8/29/64	10/64	12 mos.	Informal hearing with fact finder 1/13/64. Preparation of briefs from then until 4/15/64 hearing.
No. 13	1/27/64	4/9/64 7/29/64	9/4/64	11/64	10 mos.	
No. 14	4/17/64	7/24/64	10/10/64	11/64	7 mos.	Negotiations began in 11/63
No. 15	5/21/64	7/24/64	10/10/64	11/64	6 mos.	Case consolidated with # 14 and schedule determined by it.
No. 16	9/15/64	10/19/64	11/9/64	12/9/64	3 mos.	Three Unions petitioned on 9/15/64. WERB consolidated the disputes and just one fact finding took place.
No. 17	1/13/64	9/3/64	11/20/64	12/19/64	11 mos.	Negotiations began in 10/63

Table III - Time Taken to Resolve Impasse - Cont'd

Digest	Petition For Fact Finding	Fact Finding Hearing	Fact Finder's Report	Agreement Reached on	Elapsed Time	Additional Comments
No. 18	11/20/63 - 11/21/63	12/16/63 2/11/64 2/18/64 3/10-11/64 7/15-16/64	12/14/64	5/7/65	18 mos.	Formal negotiations began 10/1/63. Agreement reached with only two of four organizations
No. 19	10/26/64	12/18/64	2/3/65	3/9/65	5 mos.	Negotiations began in 5/64.
No. 20	See No. 8					

Table IV - Cost of Fact Finding

(in ascending order of total cost)

	(1) Fact Finder's Fee	(2) Cost of Transcript 1/	(3) Total of (1) + (2) 2/
	273.00	34.12	307.12
	300.00	59.40	359.40
	324.00	65.40	389.40
	325.00	67.80	392.80
	n/a	n/a	400.00
	329.00	79.60	408.60
	350.00	107.30	457.30
	348.00	123.90	471.90
	402.00	103.00	505.00
	556.12	none	556.12
	565.54	150.60	716.14
	550.00	177.30	727.30
	1133.88	426.40	1560.28
	1595.00	103.15	1698.15
	1550.00	494.00	2044.00
	2104.20	173.50	2277.70
	10162.04	2100.10	12262.04
Median	$ 402.00	$115.60	$505.00

1/ This figure represents the cost of two copies of the transcript and the recorder's appearance fee.

2/ This figure represents only the sum of (1) and (2). It does not include legal fees in cases where outside lawyers were used nor does it include "lost time" costs or "miscellaneous" expenses. Our data from four or five cases indicate that the cost of an outside lawyer for fact finding is $200 - $300. Miscellaneous expenses seem to be below $100.

Fact Finding
Digest # 1

EMPLOYER: Town of Preble

UNION: Drivers, Warehouse & Dairy Employees Union, Local #75, International Brotherhood of Teamsters

FACT FINDER: Reynolds C. Seitz

DATE OF FACT FINDER'S REPORT: October 15, 1962

MAJOR ISSUE: Wages. The Union requested a 7¢ per hour wage increase

BACKGROUND: The Union was recognized as exclusive bargaining agent for the employees of the Preble Street Department. The one year contract expired in March, 1962. Negotiations for the new contract reached a stalemate. The Union requested 7¢; the Employer offered no increase.

CONTENTION OF UNION: The Union based its request for a wage increase on a comparison of wages paid in Preble with those paid for similar work in DePere, Green Bay and Brown County. It also compared Preble wages with wages paid for the same type of work by general contractors in the area. The Union claimed that its intention was not to specify wage rates for each job classification but rather to make sure that wages paid in Preble did not fall further behind those paid in comparable areas.

CONTENTION OF EMPLOYER: The Employer did not question the accuracy of the wage data presented by the Union. Rather, it challenged the validity of a comparison of Preble, with its population of 12,000, with the larger areas used by the Union. The Employer submitted data which it claimed drew valid comparisons with areas similar to Preble.

FACT FINDER'S RATIONALE: The Fact Finder did not use the wage comparisons submitted by either party. They did not provide him with a conclusive picture of what wages should be. Instead, he considered the question of "ability to pay."

> It appears to me that whenever a governmental body is involved in negotiations with a Union on the matter of increase in wages, it is peculiarly pertinent to inquire into the ability to pay. This is even more true than in connection with negotiations between industry and labor.

He suggested that the evaluation of ability to pay requires an investigation of the tax base to evaluate the possibility of raising taxes if present rates are not adequate. In the issue at hand he suggested that wages paid to Street Department employees be compared with other wages paid in Preble to see if a wage increase would be "shocking" to the Town. The Fact Finder noted that the Employer did not deny its "ability to pay." Also, he cited the fact that 65 to 75 per cent of Preble's population earn their wages in industry in Green Bay. Thus the living standard in the Town is geared to the higher-paying metropolitan area.

FACT FINDER'S RECOMMENDATIONS: The fact finder recommended that the Employer pay the 7¢ per hour increase requested by the Union, effective April 1, 1962.

> If ability to pay is not a material factor, and if the Street Department Workers are not put in an unrealistically high income category as compared to other Preble townspeople, I cannot but feel that the Union request that the Town of Preble not fall further behind the area's standard is a reasonable request.

RESULT OF FACT FINDING: The fact finder's recommendation was accepted. A one-year contract was signed which called for a 7¢ increase effective April 1, 1962.

Fact Finding
Digest #2

EMPLOYER: City of DePere

UNION: DePere City Employees Union, Local #678

American Federation of State, County and Municipal Employees, AFL-CIO

FACT FINDER: David B. Johnson

DATE OF FACT FINDER'S REPORT: June 1, 1963

BACKGROUND: The Union was recognized as the exclusive bargaining agent for a unit consisting primarily of workers in the Street & Sanitation Departments. Its one year contract expired December 31, 1962. The parties requested fact finding after numerous negotiations for a new contract failed to resolve the outstanding issues.

MAJOR ISSUE: 1) Hours reduction and wages

The Union requested a reduction in weekly hours from 42½ to 40 without loss of takehome pay.

CONTENTION OF UNION: The Union submitted data to show a differential between wages paid in employment in DePere and Green Bay. It claimed that the comparison was unfavorable to DePere's employees and that a major portion of the differential could be removed by a reduction in hours of work. It justified the comparison with Green Bay on the basis that DePere and Green Bay are in the same labor market.

CONTENTION OF EMPLOYER: The Employer challenged the validity of using Green Bay as the basis for a comparison of working conditions. It asserted that a reduction in hours would have the same effect as an increase in wages and would necessitate an increase in the tax rate.

FACT FINDER'S RATIONALE: The fact finder stated that there had not been enough investigation of the effect of the proposed reduction of working hours. He suggested that there be further negotiations on this issue. He offered the following reason for this decision:

> It behooves Government, whether national, state or local, to be a model employer and to adopt employment conditions which reflect the best of prevailing practices . . . It would not appear to be the function of a fact finder to be creative in the sense that he recommends what might involve basic changes in staffing and operation of existing functions. Such results, if they are to come about, should stem from agreement between the parties who will have to live with them.

FACT FINDER'S RECOMMENDATION: The issue of hours reduction should be deferred pending further investigation and negotiation, "although adoption of a 40 hour work week is a desirable long-term objective."

RESULT OF FACT FINDING: The Employer refused to accept the fact finder's recommendation. No change was made in the hours of work.

MAJOR ISSUE: 2) Wages

The Union requested an increase of 7¢ per hour in wages (in addition to the reduction in hours).

CONTENTION OF UNION: The Union presented wage comparisons with Green Bay and other major cities and their suburbs. It claimed that these comparisons indicated that a 7¢ wage increase was reasonable; the wage increase, along with the reduction in working hours, would close the DePere-Green Bay wage differential.

CONTENTION OF EMPLOYER: Again the Employer denied the validity of a comparison with Green Bay. The Employer stated that DePere already had the highest tax rate of an Green Bay suburb. A wage increase would not only require an increase in taxes but would bring requests for wage increases from workers outside of the bargaining unit. The Employer asserted that while the cost of living had risen by about 20 per cent. To justify its position further, the Employer offered data on wages from cities which it considered to be comparable with DePere, and it pointed to "certain errors, inconsistencies, and incomplete items" in the Union's presentation.

FACT FINDER'S RATIONALE: The fact finder noted that the data presented by both parties were inconclusive. He pointed to the need for criteria other than wage comparisons for use in evaluating the merits of a wage increase. He stated that his decision was based on the Preble Fact Finding Case (Digest No.1), on pay increases in Kaukauna, and on data in Labor Force Trends published by the Wisconsin Industrial Commission. In recommending a wage increase, the fact finder said:

> . . . taxpayers must recognize that it is unfair to maintain static tax rates by denying municipal employees the improvements in their earnings which are being extended to others in the community and to similar employees in other communities.

FACT FINDER'S RECOMMENDATION: The 7¢ wage increase should be granted.

RESULT OF FACT FINDING: The Employer refused to accept the fact finder's recommendation. No wage increase was granted.

MAJOR ISSUE: 3) Sick leave policy

The Employer sought to remove the phrase, "or to members of his immediate family," from the existing sick leave clause which read, "Accumulated sick leave credits may be used for sickness or accident to the employee or to members of his immediate family."

CONTENTION OF UNION: The Union contended that the clause should be maintained. It denied the allegations made by the Employer.

CONTENTION OF EMPLOYER: The Employer alleged that employees were abusing the sick leave policy by staying home too often when the extent of illness in the family did not warrant it.

FACT FINDER'S RATIONALE: The fact finder decided that no conclusive evidence had been presented by the Employer to back up its allegations. He thought that sickness in the family which warrants the employee's absence should be certified by a doctor.

FACT FINDER'S RECOMMENDATION: The fact finder recommended that the sick leave clause be maintained with the understanding that a doctor's certificate be required for family-caused absence as is the case when the employee himself is sick.

RESULT OF FACT FINDING: The Employer maintained the sick leave clause in the form recommended by the fact finder.

Fact Finding
Digest # 3

EMPLOYER: Shawano County Highway Department

UNION: Shawano County Highway Employees Union, Local 1520, American Federation of State, County and Municipal Employees, AFL-CIO

FACT FINDER: E. L. Wingert

DATE OF FACT FINDER'S REPORT: October 1, 1963

BACKGROUND: The Union made its request for a change in working conditions in October, 1962. The Fact Finding proceedings were delayed by the Employer. The Employer challenged the Fact Finding authority of the Wisconsin Employment Relations Board in light of the existence of the Shawano County Fact Finding Commission. The WERB ruled that this Commission was inadequate; its ruling was upheld in Circuit Court.[1]

MAJOR ISSUE: 1) Wages

The Union requested an hourly wage increase of 20¢. The Employer made no offer.

CONTENTION OF EMPLOYER AND UNION: With respect to wages and the other issues in the dispute each party presented data on wages, hours and working conditions which compared Shawano with other areas. Each contended that its data justified its bargaining position.

FACT FINDER'S RATIONALE: The fact finder was not satisfied with the comparisons presented by either party. Instead, he selected nine counties for the purpose of comparison and he found that Shawano's wages were 19¢ below the average. /He said that if comparisons were to be made, they were more valid when made with other counties than with cities, towns, or private employment within the county./ The fact finder also took note of a general wage increase of 7¢ per hour in January, 1963, which was granted to toher Shawano County employees. He said:

> It has not been shown that the added cost of the recommendation for settlement made in this report would be beyond the reason-

able ability of the County to pay, or that such costs would create hardship or impose an undue burden on the taxpayers.

While nobody likes to pay taxes, that alone is hardly a persuasive reason why employees on essential work should be kept on sub-standard wages.

FACT FINDER'S RECOMMENDATION: An increase in wages of 15¢ per hour should be granted. If possible, 7¢ of the increase should be made retroactive to January 1, 1963 to be in accord with the wage increase granted to other County employees at that time.

RESULT OF FACT FINDING: An increase of 12¢ per hour was granted effective January 1, 1964.

MAJOR ISSUE: 2) Hours Reduction

The Union requested that there be a reduction in hours of work from 50 to 45 per week.

FACT FINDER'S RATIONALE: In considering the effects of a reduction in hours, the fact finder examined budgets, the tax base, manpower requirements amount of overtime worked and other factors. He noted that the employer provided steady work in all seasons with no lay-offs during slack periods; this policy had been adequate to retain an experienced work force with very little turnover. The fact finder cited the fact that the 40 hour work week is standard in private industry but that 45 hours, though still a long work week would be in line with most of the counties compared with Shawano. He conjectured that the reduction might be beneficial to the County which might then be able to get along with somewhat fewer total hours of work per year and eliminate the need to pay for slack time.

FACT FINDER'S RECOMMENDATION: The fact finder recommended that the work week be reduced to 45 hours. The recommended 15¢ wage increase (see Major Issue No. 1) thus takes on the following meaning: 13¢ of the increase covers the cost of maintaining take home pay when hours are reduced. The additional 2¢ is an actual increase. The fact finder stated that to grant further money for wage increases would

be to ask too much of the Employer at this time.

RESULT OF FACT FINDING: The Employer recognized the desirability of shorter hours. Effective January 1, 1965, hours were reduced to 45 the year-round. Thus, the 12¢ wage increase which was granted had the following meaning: 10¢ covered the cost of maintaining take home pay when hours were reduced. 2¢ was a wage increase. The hours reduction was in two steps: First, from 8 months @ 50 hours and 4 months @ 45 hours to 8 months @ 45 hours and 4 months @ 47½ hours effective January 1, 1964; Second, to 45 hours as noted above.

MAJOR ISSUE: 3) Insurance

The Union requested that the Employer pay 50 per cent of hospital and surgical insurance payments for married workers.

FACT FINDER's RATIONALE: The fact finder thought that the requested plan would place employees of the Highway Department in a preferred position compared with other County employees.

FACT FINDER'S RECOMMENDATIONS: The fact finder said: Health insurance payments by the county are desirable but are not recommended at this time. The county should be given "reasonable additional time to consider the advisability of contributing to the cost of hospital and surgical insurance for all of its employees."

RESULT OF FACT FINDING: There has been nothing further done on this matter.

MAJOR ISSUE: 4) Grievances

The Union requested a grievance procedure with impartial arbitration as the final step.

FACT FINDER'S RATIONALE: The fact finder noted the need for an "expeditious and satisfactory grievance procedure" in the hands of impartial third persons. Grievances in Shawano County are handled by the County Board; there is no civil service protection for County employees.

FACT FINDER'S RECOMMENDATIONS: The fact finder recommended that a procedure be introduced with impartial arbitration. It should provide:

> ". . . . for the presentation and disposition of complaints about the interpretation and application of the County-Union agreement (whether in ordinance or contract form), alleged violations thereof, abuses of discretion by supervisors in the treatment of employees, and about working conditions; but not including dissatisfaction with the provisions of the County-Union agreement or proposals to change it; nor with the management of highway work in matters left within the exclusive function of management; and that such grievance procedures provide for impartial binding arbitration as a final step."

RESULT OF FACT FINDING: The employer refused to agree to a grievance procedure with impartial binding arbitration as a final step.

MAJOR ISSUE: 5) Contract

The Union requested a written contract.

FACT FINDER'S RATIONALE: The fact finder said: "A collective bargaining agreement is a business transaction and should be dealt with in a business-like way."

FACT FINDER'S RECOMMENDATIONS: The fact finder recommended that a written contract be introduced.

RESULT OF FACT FINDING: A written contract was entered into on January 12, 1965.

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[1] The County made revisions in its local fact finding procedure and for a second time the WERB ruled that the procedure was inadequate. In both rulings the WERB cited the lack of provision for impartiality on the local commission.

Fact Finding
Digest # 4

EMPLOYER: City of Racine

UNION: Racine Fire Fighters Local #321, AFL-CIO

Fact Finder: Philip G. Marshall

DATE OF FACT FINDER'S REPORT: October 23, 1963

BACKGROUND: The Union requested Fact Finding. The Wisconsin Employment Relations Board granted the request after it had conducted a hearing. The WERB then denied a request from the Employer to conduct a rehearing on the matter. The Union's request for changes in working conditions were made in November, 1962 but were not considered in the 1963 budget.

MAJOR ISSUE: Hours reduction

The Union requested that there be a reduction in hours of work from 67 to 56 per week.

CONTENTION OF UNION: The Union presented a 76-page document of statistical data about working conditions to support its request that hours be reduced. In reference to this document the Fact Finder said,

> It was difficult of analysis largely because of the format chosen. . .a minute analysis of all types of working conditions; but as to the hours worked per week, no breakdown is made so that one could with reasonable diligence make comparisons with cities of like size and geographic location.

CONTENTION OF EMPLOYER: The Employer claimed that the WERB did not have jurisdiction in the dispute. It claimed that the Union's request for changes in November, 1962, came too late for incorporation in the 1963 budget. Negotiations had not begun yet for the 1964 budget. Thus the Employer claimed that it was acting in accordance with the City's budget-making procedures. The City Attorney said:

> The purpose of Section 111.70 is to encourage collective bargaining. . .not to supplant such bargaining by fiat. This attempt to place the WERB or its Fact Finder on one side of the table before bargaining has even begun is contrary to the spirit if not the letter of the law.

FACT FINDER'S RATIONALE: The Fact Finder used statistics in Municipal Year Book and Municipal Fire Administration to compare Racine's hours with practices in other Wisconsin cities and in municipalities in other states. He noted a gradual downward-trend in hours with 56 hours per week predominating at the present time. The Fact Finder made his decision according to the following line of reasoning:

> In general, the function of a fact finder in making recommendations for the settlement of the issues in dispute is to serve as an extension of the collective bargaining process. . . .His sole function is to supply such government officials as well as the collective bargaining representatives of government employees, with a prediction of the probable results of free collective bargaining defined by the fact finder as, bargaining with the right to strike on the issues involved, in the form of recommendations.

In addition, the fact finder cited the reduction of hours in Kenosha which he considered as part of the same labor market as Racine. He dismissed the Employer's argument on the basis of the WERB decision which denied the Employer a rehearing.

FACT FINDER'S RECOMMENDATIONS: The fact finder recommended that the reduction in hours from 67 to 56 per week be made without reduction in take-home pay.

RESULT OF FACT FINDING: No agreement was reached for 1963. The Employer granted a reduction in hours from 67 to 63 as a part of the agreement reached for 1964. At the same time an increase in wages and fringe benefits was granted to all city employees.

Fact Finding
Digest # 5

EMPLOYER: Pierce County Highway Department

UNION: Pierce County Highway Department Employees, Local 556, American Federation of State, County and Municipal Employees, AFL-CIO

FACT FINDER: David B. Johnson

DATE OF FACT FINDER'S REPORT: February 20, 1964

MAJOR ISSUE: Wages. The Union requested an increase in wages of 20¢ per hour. The Employer offered a 5¢ per hour increase.

BACKGROUND: There was disagreement on many issues; the impasse was reached on the question of wages. There had been a 10 per cent increase in wages in 1961. Since then the work week had been reduced from 55 to 50 hours with further reduction to 45 hours during the winter.

CONTENTION OF UNION: The Union contended that there should have been a wage increase in 1963. It challenged the Employer's contention that the 1961 agreement (unwritten and made before the Union had certification as exclusive bargaining agent) had been negotiated to cover a three year period. Also, it claimed that the five hour work reduction, although desireable, had resulted in a loss of take-home pay.

CONTENTION OF EMPLOYER: The Employer stated that the 1961 agreement was a three year agreement. As another argument against increasing wages, the Employer cited the fact that in 1962 the employees had been brought into the State retirement plan. It claimed that this would cost a million and a half dollars for funding past service benefits.

FACT FINDER'S RATIONALE: The fact finder said, "The heart of this dispute is the take-home pay of the employees." He commended the Employer for its plan by which weekly hours were reduced from 55 to 50 (it was done over a long period in order to spread the effects of the

change, but he noted that the result had been a reduction in employees' take-home pay over the 34-month period of the reduction. The fact finder doubted that the hours reduction had resulted in reduced productivity and therefore there was no justification for a reduction in weekly wages. He said:

> Thus although the County does not agree with their view, the Union is not irrational when it points out that despite their extra five hours of leisure each week employees should not now be earning less money than in 1961...County governments are exploiting employees when they maintain long work weeks without premium pay, and taxpayers should recognize that they are being subsidized by public employees when these employees accept such conditions.

The fact finder made his own wage data comparisons and found that "an increase larger than the five cents granted by the County is warranted."

With respect to the retirement plan, the fact finder noted that the state carries a substantial burden of the cost involved.

FACT FINDER'S RECOMMENDATIONS: The fact finder recommended that in addition to the 5¢ per hour offered by the Employer there should be an increase of another 5¢ per hour. The increase should be retroactive to January, 1964. He noted that retroactivity to January, 1963 was warranted but he recognized the difficulty that this would cause in budgeting and therefore did not make this recommendation.

RESULT OF FACT FINDING: The Employer refused to accept the recommendation. The Union then went out on strike. After a week, the employer offered the 10¢ raise recommended by the fact finder to be effective March 1, 1964, rather than January 1, 1964 as the fact finder had suggested. The Union accepted this offer and ended the strike.

Fact Finding
Digest #6

EMPLOYER: City of New Berlin

UNION: New Berlin City Employees, Local #647, American Federation of State County and Municipal Employees, AFL-CIO

FACT FINDER: Reynolds C. Seitz

DATE OF FACT FINDER'S REPORT: February 25, 1964

BACKGROUND: The Union was recognized by the Employer as the exclusive bargaining agent for highway employees. The Employer made unilateral changes in the work week; it eliminated the 45-hour guaranteed work week (which had been in effect from an agreement with the previous bargaining group) and substituted a 40-hour week with an increase in hourly wages and provision for overtime paid at time-and-a-half rates. There was no written contract. A secondary issue was that two employees had been fired. The reason given as, "for cause".

MAJOR ISSUE: 1) Hours of Work

The Union requested that a 45-hour guaranteed work week be reinstated.

CONTENTION OF EMPLOYER: The Employer claimed that by reducing the hours of work per week and increasing the hourly wage rate and the opportunities for overtime work it had increased the takehome pay of its employees. The Employer noted that only one municipality in its area has a guaranteed work week.

CONTENTION OF UNION: The Union presented wage data which showed that an increase in takehome pay resulted only because ten of the twelve months of 1963 were worked under the old 45-hour guarantee; takehome pay over a full year for work under the new plan would be lower, regardless of opportunities for overtime work and a higher hourly wage rate.

FACT FINDER'S RATIONALE: The fact finder did not base his arguments on whether or not other municipalities had guaranteed wages. He cited "ability to pay" as the major consideration. He then offered his views on the desirability of guaranteed employment. He said:

> When conditions reasonable suggest it employers should be willing to specify a guaranteed work week. I recognize the difficulty of guaranteeing hours under the conditions of uncertainty that exist in many industrial situations. The difficulty does not seem apparent for a municipal employer in a situation that involves about 18 employees. Particularly does this seem true against a background of experience with a 45 hour guaranteed work week. The fact that the City at one time offered a 40 hour guaranteed week indicates little concern on its part that there would be any appreciable periods of time when men were getting paid for doing nothing.

The fact finder continued:

> For reasons I have stated I find that the plan which the City substituted for the 45 hour guaranteed work week and the hourly rates prior to the change gave at best so small an increase as to be utterly unrealistic. And, as the Union pointed out, if the employees had not worked for 10 months under the 45 hour per week guarantee there is doubt that there would have been even the extremely modest increase in yearly total previously mentioned.

FACT FINDER'S RECOMMENDATION: The fact finder said: "I conclude that the Union can press for a guaranteed work week but not for one of more than 40 hours". He recommended that the parties continue negotiations as he felt that, "...there was not enough information on tax potential, industry in the community, property values and standard of living to enable me to move the hourly figure that would be appropriate." The fact finder said that the intent of fact finding is "to encourage the parties to come to an agreement," and rather than prolong the proceedings until more information is submitted he decided to leave the issues to the parties in the hope that his guidelines would encourage them to arrive at an equitable contract.

RESULT OF FACT FINDING: The Employer refused to accept the fact finder's recommendation.

MAJOR ISSUE: 2) Dismissal of Employees

The Union protested the dismissal of two employees for "cause".

CONTENTION OF UNION: The Union charged that the Employer refused to give it information about the reasons for dismissing the two employees. The Union claimed that as the bargaining agent, it was entitled to have this information.

CONTENTION OF EMPLOYER: The Employer claimed that there was no contract and thus no specific grievance procedure. In any case, it claimed that hiring and firing were management functions exclusively.

FACT FINDER'S RATIONALE: The fact finder stressed the importance of maintaining adequate records about incidents and of issuing clear warnings. "Cause", he said, requires definite proof and not reliance on hearsay testimony. The fact finder agreed with the Union that it has "a right to certain specific detailed information from the city as to the reason for the discharge of employees who are part of the bargaining unit."

FACT FINDER'S RECOMMENDATION: The fact finder recommended that the Employer provide more information about the discharges. "I find here that . . . the City did not accord the "due process" which arbitrators and courts insist upon."

RESULT OF FACT FINDING: The Employer refused to accept the Fact Finder's recommendation. The Employer asserted that the fact finder exceeded his authority in respect to the hearing and in regard to the recommendations. In view of the Employer's refusal to even discuss these matters, the Union chose to disband.

Fact Finding
Digest #7

EMPLOYER: Barron County Highway Department

UNION: Barron County Highway Employees, Local #518, American Federation of State, County, and Municipal Employees, AFL-CIO

FACT FINDER: David B. Johnson

DATE OF FACT FINDER'S REPORT: March 1, 1964

BACKGROUND: The Union was recognized by the Employer as bargaining agent. There was a written agreement in 1962 which was automatically renewed in 1963. The Union requested fact finding after negotiations for the 1964 agreement failed. The Wisconsin Employment Relations Board appointed the fact finder after it rejected the County's own fact finding procedures.

MAJOR ISSUE: Wages

The Union requested an increase of 20¢ per hour and an additional 10¢ per hour for "patrolmen and patrolmen's helpers". The Employer proposed a 5¢ increase and an additional 5¢ per hour for "patrolmen".

CONTENTION OF UNION: The Union presented comparative wage data from other counties to support its request for a wage increase. In addition, it cited the rise in the cost of living in Barron and in the rest of the country. Also, it asserted that the shrinkage in the Barron Highway Department work force in the last decade was an indication that productivity in the County had risen.

CONTENTION OF EMPLOYER: The Employer, too, presented wage data comparisons from other counties in support of its claim that Barron's wages are above average. It asserted that the County is agricultural and that its economic base does not warrant greater expenditures for wages than it has offered. It cited the bad years for farms in the County in 1962 and 1963 as evidence of inability to pay.

FACT FINDER'S RATIONALE: The fact finder was not satisfied with the wage comparisons presented by the parties. He did use, as the basis for his decision, an eight-county comparison which was part of the Employer's presentation. This comparison with all of the Counties in Barron's highway district showed that Barron's wages are 8.3¢ below the average. The fact finder also made use of 1963 national-pattern and midwest-area-pattern statistics from the Bureau of National Affairs. He noted that the main problem in the dispute was an absence of agreed-upon criteria by which to judge the merits of a wage increase. He cited the "self-defeating" nature of a routine resort to wage comparisons and gave the following hypothetical example:

> If all eight counties know that wage disputes are to be resolved on the basis of comparisons with one another, they have a strong incentive to hold rates down. If wage decisions in some of the counties are made unilaterally because the employees are not organized, that result is assured. If this later causes employees in all the counties to organize, the tendency will be for the bargaining to cover the whole eight county area. This will require some "outside reference for wage comparisons or the adoption of other criteria.

The fact finder recognized the importance of considering the cost of living and productivity but noted the difficulty of applying these factors "with enough precision to serve as a basis for settlement". He concluded by saying that he ". . . believes that these parties should begin immediately to seek a basis for judging future adjustments in wages, hours, and other employment conditions."

FACT FINDER'S RECOMMENDATION: The fact finder said: "In the meantime, although neither party may be satisfied with it, the $.08 herein recommended should provide an acceptable basis for resolving this dispute." He recommended no special additional increase for "patrolmen".

RESULT OF FACT FINDING: The Employer accepted the recommendation in full and granted an 8¢ increase retroactive to the beginning of the contract date (January 1, 1964). No special increase was given to patrolmen.

Fact Finding
Digest #8 and #20

EMPLOYER: City of Portage

UNION: Drivers, Salesman, Warehousemen, Milk Processors, Cannery, Dairy Employees and Helpers Union, Local #695

FACT FINDER: Robert J. Mueller; Gordon Haferbecker

DATE OF FACT FINDER'S REPORT: March 31, 1964; March 16, 1965

BACKGROUND: The Union was certified as the exclusive bargaining agent for the employees of the Public Works Department in 1962. Negotiations for the 1964 contract reached an impasse over two issues: wages and insurance. The impasse remained after the fact finder gave the parties his recommendations. After several unsuccessful attempts to negotiate, and two unsuccessful attempts by the WERB to mediate, the Union petitioned for fact finding; a second fact finding took place and once again no agreement was reached.

MAJOR ISSUE: (1) Wages

The Union requested an hourly wage increase of 10¢. After the first fact finding was refused, the Union demanded 16¢ but later reduced its demand to 8% coupled with single employee hospitalization insurance. The Employer offered and put into effect a 5¢ per hour increase.

CONTENTION OF UNION: The Union contended that the offer of 5¢ was less than the average wage increase to employees doing comparable work in other cities. The Union presented data which showed a 14¢ per hour average increase for workers in other Wisconsin municipalities with the same population as Portage. It examined contiguous counties and found the average increase to be 9.9¢ per hour. In addition the Union claimed that these workers deserved more than

the 5¢ offered by the city because their many skills facilitated their assignment on an interchangeable basis. The Union also objected to the Employer's insistence on comparing the wages paid to its workers to "common labor" wages in other employments.

CONTENTION OF THE EMPLOYER: The Employer based its argument on "ability to pay"; it said that the overall cost of the wage increase and the insurance is prohibitive and would necessitate an increase in taxes which would make the city less attractive to industry. It felt that these 15 workers could not be given a wage increase without a similar increase for the other 41 City employees. The Employer claimed that City wage rates are 33¢ higher on the average than wage rates in local industry and that City wages compare very favorably with those paid to workers in Wisconsin municipalities of similar population size. The Employer stated that the workers in the bargaining unit are not skilled, are well paid and have year-round security. The Employer noted that it does not lay-off workers in slack seasons. During the second fact finding, the Employer cited declining productivity in the Public Works Department as an additional reason for not granting an increase in 1965.

FACT FINDER'S RATIONALE: The first fact finder discounted comparisons with other areas because they were based solely on similar population size. He stressed the necessity of considering wage and price trends at the national, state and county level (in ascending order of importance). He found that a comparison of wages in Portage with wages for similar work in Columbia County (Portage is in Columbia County) was unfavorable to the City. A primary factor in the fact finder's decision was the impact of

the higher wage level of Dane County upon living costs in Portage as well as the depressing effect on wages paid in Portage because of the availability of workers from the low wage and low living cost area of Marquette County to the north of Portage. The fact finder noted that this situation tended to squeeze Portage residents who worked in Portage. They faced higher living costs caused by the expenditures of Portage residents who worked for higher wages in the adjoining southern county. Yet, they were paid lower wages because of the competition in the labor market from workers commuting from the lower cost area to the north of Portage. These considerations were regarded by the fact finder as more important than the Employer's data on Portage wage levels, the possibility of a tax increase, and the effect of taxation on attraction of industry. These latter factors, he said, were "further removed from the basic issue of the wage rate determination."

The second fact finder suggested that the Employer compare its common-labor employees only with those in cities which, like Portage, do not differentiate among their street workers according to task when establishing pay classifications, but instead have just one common-labor category. Such comparisons, and comparisons of Portage common-labor wages with pay scales for more skilled classifications in other cities (small truck drivers, garbage collectors, etc.) show that the Employer could have given a higher rate in 1964 "without being out of line with comparable cities...," especially when it is noted that "Portage makes no contribution to hospital insurance as most communities apparently do."

FACT FINDER'S RECOMMENDATION: The first fact finder recommended that the employees should be granted an 8¢ per hour increase for 1964. This will not close the City-County wage differential but will prevent it from widening. The second fact finder recommended a 5¢ increase for 1965.

RESULT OF FACT FINDING: The Employer ignored the recommendations. Prior to the 1964 Fact Finding the Employer unilaterally gave a 5¢ increase; the Employer refused to increase this amount and refused to grant any increase for 1965. The Employer then refused to implement the recommendations of the second fact finder.

MAJOR ISSUE: (2) Insurance

The Union felt that the existing health insurance plan was unsatisfactory. The employees had group insurance but the Employer made no contribution to it. The Union requested that the Employer provide fully-paid family hospital and surgical insurance. In July, 1964 the Union said that it would accept single-employee insurance coupled with the 8¢ wage increase--the city offer at that time was for 5¢ and no insurance, or 2¢ and single-employee insurance.

CONTENTION OF UNION: The Union cited the fact that many local private contracts include insurance coverage for the employees. It challenged the Employer's cost figures as too high. In the second fact finding, the Union showed that its comparisons with truck drivers in other municipal employment in Wisconsin revealed that in only two cities was no employer contribution made toward hospitalization insurance.

CONTENTION OF EMPLOYER: The Employer said that the cost of insurance for all employees would be equivalent to a ½ mill tax increase. A low tax base is an essential item for attracting new industry to the City.

FACT FINDER'S RATIONALE: The first fact finder said, "Employer paid insurance for employees is included in the great majority of collective bargaining agreements today. It also affords the employer an opportunity to give its employees a greater benefit than the actual cost thereof." The second fact finder noted that Portage pays the insurance premiums of its teachers.

FACT FINDER'S RECOMMENDATION: The first fact finder recommended, "that the City give very serious consideration to implementing single employee hospital and surgical insurance coverage." The second fact finder recommended that the Employer provide the single employee coverage for street employees.

RESULT OF FACT FINDING: The Employer took no action on the insurance question after the first fact finding and refused to change its position after the second fact finding.

Fact Finding
Digest #9

EMPLOYER: Green County Highway Department

UNION: Green County Municipal Employees, Local #226, AFSCME, AFL-CIO

FACT FINDER: Robert J. Mueller

DATE OF FACT FINDER'S REPORT: April 15, 1964

BACKGROUND: The Employer accepted a pay plan in 1960 recommended by the State Bureau of Personnel which called for wage increments of 6-8 per cent in 1961 and 5 per cent in 1962 and 1963. In October, 1962, the Union was certified as exclusive bargaining representative for employees of the Highway Department. Negotiations began in May, 1963, and became deadlocked subsequently over wages and insurance. The Employer put into effect a 5 cent increase in 1964 even though the Union had rejected this amount as inadequate.

MAJOR ISSUE: (1) Wages

The Union requested a 25¢ per hour increase; the Employer offered and put into effect a 5 cent increase.

CONTENTION OF UNION: The Union used total assessed valuation in various counties as a standard by which to demonstrate the Employer's ability to pay a higher wage. The Union also claimed that highway workers were falling behind workers in manufacturing, workers of the Wisconsin Road Builders Association, workers in contiguous counties, and other employees of Green County.

CONTENTION OF EMPLOYER: The Employer wished to continue its use of advice from the Bureau of Personnel because the County Board realized that its (the Board's) members were "primarily farmers who were not experienced or expert bargainers...because they wanted to be fair in the treatment of their employees." Because of disagreements which occurred with the Union the Board requested a new Personnel Survey. The Board contended that it was fair to

continue to use the 1960 survey until such time as the new results were published.

FACT FINDER'S RATIONALE: The fact finder said:

> The evidence reveals that the recommended increases of 5 cents per hour for 1962 and 1963 fell short of average increases that actually prevailed in industry and elsewhere ...For the county to stand on the figures...in view of actual facts and averages that existed in those particular years is not realistic nor reasonable.

The Fact finder stated that sufficient evidence had been presented by the Union to indicate that the County was indeed able to pay higher wages. He further said that the annual wage improvements were small to begin with and even smaller when increases in the cost of living were considered. The fact finder calculated that, if figured on a dollars per hour basis, the differential between wages paid to salaried County employees working a 40 hour week and hourly-paid highway employees working a 47½ hour week was 12¢ per hour over the three years 1962-1964.

FACT FINDER'S RECOMMENDATION: A wage increase of 7¢ per hour over and above the 5¢ offered by the Employer should be put into effect. The fact finder commented as follows:

> This would constitute a 12¢ wage increase for 1964 and would bring hourly employees to the same relative position with the salaried Green County employees. It is not possible to go back to 1962 and 1963 to pick up the difference wherein the salaried employees received a larger increase for each of the two years, but it seems reasonable that the equalizing increase of 12 cents can and should be implemented as of January 1, 1964.

RESULTS OF FACT FINDING: The Employer refused to grant more than its initial offer of 5¢ per hour.

MAJOR ISSUE: (2) Insurance

The Employer offered to pay the employee's share (not for dependents) of the plan in effect for all other County employees. The Union requested another insurance carrier claiming it to be the preference of the highway employees.

CONTENTION OF UNION: The Union contended that the Employer should be obliged to bargain concerning the most desirable insurance coverage. It should not be allowed to unilaterally determine the insurance plan.

CONTENTION OF EMPLOYER: The Employer claimed that the institution of the insurance plan had not been the result of a Union request but rather had been a suggestion by the Employer. The insurance, costing approximately 3 cents per hour per employee, had been obtained for all County employees and had been given to the lowest bidder based on specifications submitted by the County's insurance committee.

FACT FINDER'S RATIONALE: The fact finder said:

> Aside from what the legal duties to bargain may be, the evidence reveals that the insurance plan that is presently in effect by the County is not substantially different or lacking in any material respect from the plan proposed by the Union. In fact the County plan includes major medical whereas the proposed Union plan does not.

The fact finder recognized that the dispute was over the attitudes of the parties and not the merits of the insurance plans.

FACT FINDER'S RECOMMENDATIONS: The fact finder recommended that the Union accept the Employer's plan and he suggested that an additional 3¢ be added to the package to cover the increase of insurance coverage by the Employer. He did not address the question of the obligation to bargain about insurance. He said:

> It would also appear fair and equitable that the employees who have been paying their own insurance should be reimbursed retroactive to January 1, 1964 in an amount equal to the sum attributable to the total paid for insurance per employee by the employer for other employees during such corresponding period.

RESULT OF FACT FINDING: The Employer's plan was accepted. Those employees who had been paying for their own insurance were reimbursed. The additional 3¢ cost to the Employer was accepted.

Fact Finding
Digest # 10

EMPLOYER: Board of Education, Eau Claire

UNION: Eau Claire Federation of Teachers Local 696, AFT, AFL-CIO

FACT FINDER: E. L. Wingert

DATE OF FACT FINDER's REPORT: May 22, 1964

BACKGROUND: The Union is bargaining representative for all teachers in the school district. The parties were unable to reach agreement on terms for the 1963 contract. The Employer's final offer to the Union before it submitted its budget to the City Council just partially met Union demands and was rejected. The Union requested fact finding to resolve the deadlock.

CONTENTION OF UNION: On all of the issues considered below, the Union took the position that Eau Claire teachers should be receiving at least the median pay scales received by teachers in twelve comparable cities. (These cities were agreed upon by the parties as a just basis for comparison.)

CONTENTION OF EMPLOYER: The Employer maintained that as a public body responsible to all of the people it is bound to consider the wishes of the community, and that the City Council in approving its budget must weigh the competing demands of other city-financed activities. The Board and the Council must have discretion in determining the amount of money to be raised by taxation and the way to spend it. That determination should be approved by the Fact Finder unless he finds it "unreasonable or arbitrary."

FACT FINDER'S RATIONALE: The fact finder said that salaries of Eau Claire teachers were below both the 12-city median and average salaries "for comparable experience and academic degrees." In the absence of

contrary evidence he assumed that duties, responsibilities, work load, and performance of Eau Claire teachers met the 12-city median standard. "It is not shown that the financial ability of the taxpayers to meet median salary costs is below median level." The Employer's last offer "went about half way toward the objective of reaching the 12-city median." The fact finder estimated that the recommended increases would bring salaries to within one per cent of the median in most scales and steps. Another factor, he noted, was that non-teaching employees of the city had received a 2 percent improvement in 1964 yet "when discovery of unanticipated school aids (which the Employer had underestimated) presented a choice between reducing school taxes or increasing teachers' salaries for 1964, the Board of Education and the City Council chose to reduce taxes."

FACT FINDER'S RECOMMENDATIONS: The fact finder made the following recommendations: "The recommended increases (below) should be placed in effect immediately or . . . in no event later than September 1, 1964. . . . That the increases be paid retroactively from January 1, 1964, as soon as and to the full extent that such payment can lawfully be financed by the school district." The settlement should remain in effect until January 1, 1964.

MAJOR ISSUES 1 - 6

The six major issues, the recommendations and the results are summarized in the following table:

	Increase needed for 12-City Median	Increase requested by Unions	Increase offered by Employer	Fact Finders recommended increases	Increase granted in Final Agreement
1. Teachers with no college degree	n.a.	$100	$100 if 14 yrs. experience	$100 if 14 yrs. experience	$100 if 14 yrs. experience
2. Teachers with Bachelors Degree					
Minimum	100	100	100	100	300
Maximum	285	285	150	210	150
3. Teachers with Masters Degree					
Minimum	225	225	150	175	300
Maximum	480	480	200	405	655
4. Teachers with dependents	100	200	-0-	100	-0-
5. Employer payments for Hospital & Surgical Insurance					
Family	n.a.	119	-0-	75	-0-
Individual	n.a.	36	-0-	-0-	-0-
6. Length of Service Increment					
10 years	n.a.	100	-0-	100	-0-
20 years	n.a.	-0-	-0-	50	-0-

RESULT OF FACT FINDING: The increases were not made retroactive. Instead, they were put into effect as of August 1, 1964. In addition it was agreed that there be an across-the-board increase of two hundred dollars effective January 1, 1965.

Fact Finding
Digest #11

EMPLOYER: City of Watertown

UNION: Local 695, Teamsters

FACT FINDER: Philip G. Marshall

DATE OF FACT FINDER'S REPORT: July 20, 1964

BACKGROUND: The Union was certified as exclusive bargaining representative for the Street, Park, Sanitation and Maintenance Departments employees. The 1963 collective bargaining agreement expired on December 31, 1963. It contained a provision for meetings beginning in August, 1963, to negotiate the 1964 agreement; all issues were resolved thereunder except for the Union request for a 15¢ per hour across-the-board increase.

CONTENTION OF UNION: The Union claimed that regardless of the criteria used, the relative position of Watertown employees has suffered by the failure of the Employer to grant a 1964 wage increase. On the basis of the comparative wage data it offered, the Union felt that its 15¢ request was justified. This, it claimed, was even more evident when information on 1964 agreements in other localities was added to the data.

CONTENTION OF EMPLOYER: The Employer argued that the 1964 negotiations on other issues resulted in financial benefits to the employees despite there being no general wage increase. Furthermore, general wage increases should occur every OTHER year to allow for capital improvements in off years. Also, statistical data comparisons with similar cities revealed that no increase in wages was warranted.

FACT FINDER'S RATIONALE: The fact finder reasoned as follows: The city's narrow sample is too restrictive to be truly objective. The Union's sample approaches objectivity. The median rate should be used to modify the effects of occasional excessive rates within job categories. Even this approach ". . .must be leavened by giving some weight to other criteria, such as the cost of living factor (negligible in this case) and that more nebulous and subjective guide line to be found in any arbitrator's or fact finder's judgment of the area to which free collective bargaining would have carried the parties absent the interference of a third party."

FACT FINDER'S RECOMMENDATIONS: The fact finder recommended that an 8 cent per hour across-the-board increase retroactive to January 1, 1964 be granted. The median figure would warrant a 9 cent increase for the lowest of the three classifications considered. The 8 cent figure recognizes the adjustments that the city has made on current wages which amounts to an estimated 1 cent per hour.

RESULT OF FACT FINDING: The Employer ignored the fact finder's recommendations. However, in November, 1964, an agreement was reached for 1965 whereby an 11 cent per hour increase was granted.

Fact Finding
Digest # 12

EMPLOYER: City of South Milwaukee

UNION: Local 883, AFSCME, AFL-CIO

FACT FINDER: Thomas P. Whelan

DATE OF FACT FINDER'S REPORT: August 29, 1964

BACKGROUND: The Union was certified in August, 1963 as exclusive bargaining representative for various employees of the Public Works Department, Water Department, School Board and Vocational School. During the next three months the Union made requests to the City Civil Service Commission; counterproposals were offered which were thoroughly discussed at a number of meetings. Fact finding was requested by the Union in October, 1963, to resolve eight outstanding issues.

MAJOR ISSUE (1) WAGES

The Union requested a 20¢/hour general wage; the Employer offered no increase.

CONTENTION OF EMPLOYER AND UNION: Each side presented tables showing comparisons of wage rates in the job classifications in question with similar rates in comparable cities. The different cities selected for inclusion in their comparisons led the parties to different conclusions with respect to a wage increase. Also, the Employer argued that since the deadlock had occurred in October, 1963, no wage agreement data in other cities for 1964 should be considered. Further, the Employer contended that fringe benefits should be included in any determination of worker compensation because they are inseparable from wage rates.

FACT FINDER'S RATIONALE: The fact finder based his decision on his view that fact finding is to serve as an extension of the collective bargaining process. Thus, he felt, it is relevant to look at 1964 wage settlements, especially since information on many effective in 1964 was available to the parties at the time of the deadlock. The fact finder

carefully evaluated the parties' statistical presentation; he favored the greater objectivity of the union presentation. He relied on a comparison of median wage figures within job classifications as the basis for his wage increase conclusions. Also, although he agreed with the Employer that fringe benefits were relevant, there was no evidence of superior fringe benefits being paid by the Employer which would preclude a wage increase.

FACT FINDER'S RECOMMENDATION: The fact finder recommended that there be a general wage increase of seven cents per hour to the employees in the bargaining unit, effective January 1, 1964.

RESULT OF FACT FINDING: The seven cent increase was granted, retroactive to January 1, 1964.

MAJOR ISSUE (2) Cost of Living Formula

The Union proposed to restore the cost of living formula which had been in use until the parties agreed to freeze it effective January, 1963.

BACKGROUND: From 1957-1963 the parties used a cost of living formula computed from the Bureau of Labor Statistics' Consumer Price Index. The Employer's practice was to add the increase warranted by the cost of living formula to the base rate for the following year.

CONTENTION OF UNION: The Union claimed that while the index was in use the increases gained from it were given by the Employer in place of any general wage increases; at best only a small general increase was given. The Union also claimed that the freeze was only to be in effect for the year 1963. It asserted that by freezing the index for 1963 it suffered a 2¢ loss which was not made up by other increases.

CONTENTION OF EMPLOYER: The Employer felt that the restoration of the formula would involve an overall wage increase which could not be justified on the basis of the wage data presented in support of Issue I. Furthermore,

the Employer argued, the Union had agreed to freeze the index permanently.

FACT FINDER'S RATIONALE: The fact finder stated that the language of the agreement does not support the Union's contention. "Obviously, for good and sufficient reasons the Union bargained away the cost of living. Obviously this was done to gain some other economic advantage. The parties appear to have in good faith agreed to the freeze."

FACT FINDER'S RECOMMENDATION: The fact finder recommended that the cost of living formula remain frozen.

RESULT OF FACT FINDING: The index remained frozen.

MAJOR ISSUE (3) Life Insurance

BACKGROUND: The Employer pays the full cost of three thousand dollars of life insurance per employee. The Union made two proposals for increasing the coverage, one involving shared payment of premiums and the other involving total payment by the Employer. The Employer rejected both proposals although at one point in the negotiations it agreed to accept the second proposal but later withdrew.

CONTENTION OF UNION: While recognizing the liberal benefits paid by the Employer, the Union felt that its insurance benefits were inferior to those received by city employees in Milwaukee.

CONTENTION OF EMPLOYER: The Employer claimed that in comparison with other communities, its life insurance benefits were very liberal and it presented figures to show this.

FACT FINDER'S RATIONALE: The fact finder noted that the original Employer-offer, although subsequently withdrawn, was made in good faith; its very occurrence indicated that the Employer had recognized that a life insurance adjustment should be made.

FACT FINDER'S RECOMMENDATIONS: The fact finder recommended that, life insurance be increased to $5,000 per employee (the plan accepted at one point by the Employer), effective January 1, 1965, with full cost borne by the Employer.

RESULT OF FACT FINDING: The recommendation was accepted.

MAJOR ISSUE (4) Workmen's Compensation Agreement

BACKGROUND: There is an oral workmen's compensation policy which has been in effect for a number of years.

CONTENTION OF UNION: The Union contended that the workmen's compensation policy is an agreement and therefore should be reduced to writing under the provisions of Section 111.70.

CONTENTION OF EMPLOYER: The Employer felt that the policy needed no clarification and that it should only be a subject of bargaining when changes are contemplated.

FACT FINDER'S RATIONALE: The fact finder noted that written terms of agreement are a common standard in private industry. He said that oral agreements are not satisfactory especially where the Employer periodically changes its personnel as is the case with governing bodies. The other terms and conditions of employment have been reduced to written ordinances. "Reduction to writing of the particular oral arrangement in question herein makes for certainty and stability, is convenient for reference, helps to avoid possible dispute and gives assurance to those who may benefit thereunder."

FACT FINDER'S RECOMMENDATIONS: The fact finder recommended that the oral agreement be reduced to writing.

RESULT OF FACT FINDING: The recommendation was accepted.

OTHER ISSUES: The fact finder made the following recommendations on the four remaining issues.

1) The classifications of "brush chipper" and the rates of pay for "operator" and "feeder" should be reviewed through existing civil service practices.

2) There should be an increase of allowable accumulated sick leave from 60 to 90 days, effective January 1, 1964.

3) The Union should reconsider and withdraw its classiciation proposal.

4) The Civil Service Commission proposal on classification of School Board custodians should be accepted.

All four recommendations were accepted.

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Note: The agreement for 1964 based on the fact finder's recommendation was made in September, 1964. In October, 1964 an agreement was reached for 1965 which called for a 7¢ per hour wage increase and a number of other items.

Fact Finding
Digest # 13

EMPLOYER: Racine County

UNION: Deputy Sheriffs' Association, Racine County

FACT FINDER: Reynolds C. Seitz

DATE OF FACT FINDER'S REPORT: September 4, 1964

MAJOR ISSUE: Wage Increases for Deputy Sheriffs

BACKGROUND: Negotiations reached a deadlock over the issue of wage increase. The Association asked for increases as shown in the table below. The Employer offered no increases.

CONTENTION OF UNION: The Association supported its request with comparative statistics for numerous groups, e.g. the State Highway Patrol, the city of Racine Police Department. Also, it stressed the responsibilities of a good, modern police fore, and the difficulty of recruiting at current pay levels.

CONTENTION OF EMPLOYER: The Employer submitted comparisons of its pay scale with those for deputy sheriffs in a number of selected counties to show that its pay scale was not out of line. Also, it demonstrated the improvements made in the pay scale each year since 1958.

FACT FINDER'S RATIONALE: The fact finder said that the Association had made a good case for a wage adjustment. "Certainly the work which members of the Sheriffs' Department do is on a very high plane of social usefulness when compared with other workers in Racine County who are receiving higher wages." Higher salaries are needed to attract better-educated recruits. Additional education should also be stressed for current employees. However, though the deputies do merit a substantial increase, their salaries should be kept below those offered to college-trained elementary and secondary school teachers.

FACT FINDER'S RECOMMENDATIONS: The fact finder recommended that deputy sheriffs take on their own time "additional educational training aimed at developing the qualities. . .desirable in a police officer." A plan should be bargained on in which there should be increments annually for years of service combined with educational credits contrary to the current plan in which the pay is the same for all of those with more than three year service. The recommendations are shown in the following table:

Service	(1) Present Level	(2) Union Request	(3) Difference between (2) and (1)	(4) Recommendation	(5) Result
0-1 year	$452/month	$484	+$32	+$10	$25
1-2	492	n.a.	n.a.	0	$25
3+ years	497	514	+ 17	+ 17	$25

RESULT OF FACT FINDING; There was no official acceptance of the fact finder's recommendations but shortly thereafter a $25 across-the-board increase in wages was granted and an educational program was begun.

Fact Finding
Digest # 14

EMPLOYER: Wood County

UNION: Local #344, AFSCME

FACT FINDER: Robert J. Mueller

DATE OF FACT FINDER'S REPORT: October 10, 1964

MAJOR ISSUE: Wages for five custodial employees.

BACKGROUND: After numerous negotiating sessions the parties reached a deadlock on the issue of wages for custodial employees who work at the County Courthouse. They agreed on the wages of one employee but differed by from $10 to $15 monthly on the wages of four others.

CONTENTION OF UNION: In addition to its presentation of comparable occupational wage rates in Wood County and in Wisconsin generally, the Union based its claims for an increase on a) the responsibility given to these employees, b) the fact that they often work without supervision, and c) the notion that they should be paid wages greater than or equal to the wage rates of common labor in the area.

CONTENTION OF EMPLOYER: In support of its offer, the Employer presented the wage rates of other janitorial positions in private employment. It claimed that on a percentage-increase basis its offer was higher than increases granted other County employees. Also, the janitors in question were offered stable year-round employment and vacation and sick leave benefits. Finally, the Employer noted that this was a first contract with the Union and that the County had to keep operating costs at a reasonable level to satisfy the taxpayers. The Employer questioned the validity of some of the comparisons made by the Union.

FACT FINDER'S RATIONALE: The fact finder chose three occupations which he found most relevant for comparison. He showed that the monthly rates of these groups were higher than those requested by the Union. He stated that a substantial increase was thus warranted despite the position taken by the County Board which he described as follows: ". . .the county is fully aware of the existing discrepancies and rate differential. . .While giving consideration to the taxpayer in attempting to minimize rising tax costs, the Board has strived to balance the conflicting considerations and in so doing, their offer was in excess of the normal percentage increase in the area. . . which indicates that the Board recognizes the wage gap and is sincere in trying to rectify it. . ."

FACT FINDER'S RECOMMENDATIONS: The employees in question should receive the full increase requested by the Union. The fact finder requested that the Board ". . .give consideration to the fact that the proposed rates are still somewhat lower than those received by three other custodial groups. . .who are paid by tax dollars. . .I would suggest that a very substantial increase at one step would do much to avoid future disputes of the magnitude involved herein."

RESULT OF FACT FINDING: The parties agreed to an increase for November and December, 1964 which brought the salaries of the five employees to the same level. The wage increases were: $0, $20, $20, $20, $35. The Union had requested $10, $30, $30, $30, $30. For 1965 the wages of all five employees were increased by an additional $16.

Fact Finding
Digest # 15

EMPLOYER: Wood County

UNION: Local #344, AFSCME

FACT FINDER: Robert J. Mueller

DATE OF FACT FINDER'S REPORT: October 10, 1964

MAJOR ISSUE: Discharge of one employee at the County Hospital

BACKGROUND: The employee, who had been at the hospital since 1960, became upset when received a warning notice concerning the performance of his duties. He stayed home on this account despite prior warning that if he did so he would be discharged. Subsequently he was discharged. There was a contract in effect at this time which contained an article of Employee's Rules, including grounds for discharge.

CONTENTION OF UNION: The Union claimed that the matter should be decided on the question of whether or not the employee's absence was in violation of the sick leave provision of the contract. It claimed that the employer predicated the discharge on this provision at the time of discharge. Further, the employee's overall record was satisfactory, and he had received only two warning notices within the year, not the three required for dismissal.

CONTENTION OF EMPLOYER: The Employer stated that the employee's work was unsatisfactory on numerous occasions. Also, two months previously he was given his progress rating which incorporated oral reprimands and thus served as a third written warning. The employee disobeyed the last warning by not reporting to work as scheduled; failure to do so was a justification for discharge.

FACT FINDER'S RATIONALE: The fact finder based the recommendation on more than the facts of the particular incident leading to the discharge. He considered the total performance record of the employee. "The total evi-

dence revealed that the employee resented and did not constructively accept instructions or criticism from his supervisor." He made no efforts to improve his performance. Also, the employee made no effort to get medical substantiation of his state of upset between the time of warning and his scheduled work time sixteen hours later.

FACT FINDER'S RECOMMENDATION: The discharge should be upheld.

RESULT OF FACT FINDING: The discharge remained in effect. In addition, however, the hospital board replaced the superintendent.

* * *

Note: This case is a grievance arbitration case and is the first that was settled under the fact finding procedure. The case was handled at the same hearing held in Wood County for the preceding case (Digest # 14).

Fact Finding
Digest # 16

EMPLOYER: City of Eau Claire

UNION: Local 284, AFSCME: Local #487, IAFF: Eau Claire Professional Policemen's Association. All three were represented by Local #284.

FACT FINDER: David B. Johnson

DATE OF FACT FINDER'S REPORT: November 9, 1964

BACKGROUND: All of the above named Unions are recognized by the Employer as certified bargaining units. All employees received a 2 per cent pay increase for 1964. Also in 1964 an additional 5 per cent over a two year period ('64-65) was given to police demonstrating professional proficiency. Moreover, the work week of firemen was reduced from 67 to 63 hours, and firemen classified as "drivers" were granted an additional $5.00 per month.

When the 1965 deadlock was reached the position of the parties was as follows: The firemen requested $30 per month across the board; an increase in longevity payments whereby an additional 1% of base pay would be received after 12 years, making a total of 6%, and another 3% after 16 years making a total of 9%; 3 weeks of vacation after 10 years; 6 months of sick leave, and payment on retirement of 1/2 of accrued but unused sick leave.

The policemen requested a 5% increase across the board in addition to the already scheduled 2-1/2% increase negotiated the previous year.

The public works employees requested a one step (5%) increase across the board; the same longevity request as described above for firemen; provision for 4 weeks of vacation by adding one day per year to each man's vacation beginning the 15th year of service;

and the addition of Veterans Day and the remaining 1/2 of Good Friday as paid holidays.

The Employer in all cases offered 2-1/2 per cent across the board. On receipt of the fact finding petitions the WERB issued an order consolidating the proceedings and appointing a fact finder to hear the three cases simulultaneously.

During the hearing before the fact finder the unions jointly amended their requests to include the following items: five per cent additional increase for police and public works employees; seven and a half per cent increase for firefighters; a one per cent increase in longevity payments after twelve years, making a total of six per cent, and the addition of a three per cent longevity payment after sixteen years, making a total of nine per cent; and finally, provision for a fourth week of vacation by adding one day per year to each man's vacation, beginning with the fifteenth year of service. The Employer continued to offer a 2-1/2 per cent increase to all three units.

In past bargaining the Employer had always applied percentage increases, but as the fact finder noted, no fixed criteria were evident for use in judging what the adjustments should be.

CONTENTION OF UNIONS: The Unions based their requests on the fact that there had been prosperous economic conditions in Eau Claire and in the nation; also the size of some private industry collective bargaining settlements (notably in the auto and construction industries) warranted an increase larger than the increase the Employer had offered. The Unions introduced numerous wage comparisons including one showing pay for public employees in seven comparable Wisconsin cities showing midpoints of pay ranges. The fact finder said of the union presentation: "All this material suffered from lack of analytical comment and explana-

tion of how it applies to this dispute."

CONTENTION OF EMPLOYER: The Employer stressed that the wage increase which it offered, plus already-agreed-upon adjustments in police pay, step increases, and longevity increases, amounted to 3.8 per cent and approximated the Guideposts advocated by the national government for non-inflationary increases. The Employer also submitted comparative wage data including a comparison of maximum pay rates with ten Wisconsin cities with similar population to Eau Claire. It argued that though the midpoints of ranges were used by the unions, the maximums were the relevant statistics because in Eau Claire 95 per cent of public works employees, 86 per cent of policemen and 87 per cent of firemen were at the top of their ranges. The fact finder said, ". . .the comparisons introduced by the City, which show maximums without longevity increases, are more meaningful comparisons." In short, the Employer argued that its wage scales and fringe benefits compared favorably with similar-sized cities in Wisconsin and with local business and industry, and that its conditions of work were attractive to prospective employees in the community.

FACT FINDER'S RATIONALE: The Employer's figures are more persuasive than the Unions' and show that it has been generous in its treatment of its employees. Moreover, "comparisons of compensation and other employment conditions with cities of comparable size in Wisconsin are generally favorable to Eau Claire." Noting that the Employer claimed that its offer met and even surpassed the Guideposts, the fact finder said that the Guideposts. . ." are particularly pertinent in their application to negotiations involving public employees,

since these employees are precluded from striking to enforce their views on what their employment conditions ought to be." However, the fact finder differed with the Employer in interpreting the Guideposts. He suggested that the items agreed to as part of the bargaining in previous years, which are to be routinely carried out in the current year, should not be included in the percentage-increase figure used to compare the current value with the Guideposts. He estimated that the value of the Employer's offer was only 3.0 per cent and not 3.8 per cent. The fact finder also recommended that the Employer should offer an additional 1.3 per cent bringing the total offer to 4.3 per cent; this is equal to the sum of the Guideposts (3.2) and the change in the cost of living over the past year (1.1). He stated that this additional 1.3 per cent should be used for longevity increases. He said, "Almost half of the employees have over twelve years of service. . .a man's alternatives (particularly among policemen and firemen) are not great when he has invested that much time in specialized employment of this kind. The employees desire it, and it seems fitting that extra increases should go to the senior employees." Also, he noted that Eau Claire's longevity plan (at least for policemen and firemen) was not as liberal as "some four of the other cities with which the City has made comparison."

RESULT OF FACT FINDING: A 4.3 per cent package was put into effect. However, the Employer redistributed the package. 3.3 per cent was allocated for a general wage increase (2.5 was recommended). The additional .5 per cent to patrolmen and sergeants was granted. The remaining .5 per cent was put into the longevity program (where 1.3 was recommended). The settlement terms were made by the Employer unilaterally. No negotiations occurred after release of the fact finder's report.

Fact Finding
Digest # 17

EMPLOYER: City of Appleton

UNION: Teamsters Local #563

FACT FINDER: Phillip Marshall

DATE OF FACT FINDER'S REPORT: November 20, 1964

BACKGROUND: The fact finding procedure was invoked after the parties had reached a deadlock on 14 issues. Twelve of these were settled satisfactorily during the fact finding hearing; the two remaining were the general wage issue and the matter of retroactivity of the settlement. The Union, representing Public Works Department employees, requested a 10¢ per hour raise; the Employer offered nothing.

CONTENTION OF UNION: The Union presented data for other cities which, it claimed, was justification for a wage increase. Also, it cited considerably higher wages paid by the Employer to outside contractors performing similar work. Further, it pointed out that the School employees in Appleton had received a 3% increase for 1964, while the employees in the unit in question had not received a general increase. Finally the Union cited the rising cost of living, the Employer's ability to pay, and the increase in labor efficiency and productivity.

CONTENTION OF EMPLOYER: The Employer presented similar wage data in support of its case. It said that the 3% increase to the Board of Education employees was given to right a basic inequity. The Employer attributed the rise in productivity in the Public Works Department to more efficient equipment rather than labor, and it claimed that over the years its wage increases were substantially greater than

would have resulted from use of a cost of living index.

FACT FINDER'S RATIONALE: The fact finder said that the comparative wage data submitted by the parties were inconclusive. They did show, however, that if no increase was given "relationships which had existed in prior years" (between Appleton and the other cities in the Fox River Valley) would be disturbed. The increase recommended herein, he said, is "the most frequently occurring increase granted to employees in both manufacturing and non-manufacturing in private industry as well as employees in public employment. . .a mean settlement reached in negotiations in other cities or voluntarily granted by other municipalities to their employees. . ./and/ the most frequently occurring increase granted in related communities and industry within the Fox River Valley." The fact finder also said that no compelling reasons had been given for not making the settlement retroactive to the contract date.

FACT FINDER'S RECOMMENDATION: The fact finder recommended that there be an increase of 3%, or 7¢ per hour paid retroactively to January 1, 1964.

RESULT OF FACT FINDING: An agreement was reached on December 19, 1964 which gave the Street Department employees (and all other city employees) a 7¢ increase retroactive to January 1, 1964.

Fact Finding
Digest # 18

EMPLOYER: City of Milwaukee

UNION: City of Milwaukee Garbage Collection Independent; Milwaukee District Countil 48, AFSCME; Milwaukee Fire Fighters Association Local 215; Professional Policemen's Protective Association.

FACT FINDER: Panel of Reynolds C. Seitz, Emmert L. Wingert, Nathan P. Feinsinger (chm.)

DATE OF FACT FINDERS' REPORT: December 14, 1964

BACKGROUND: Negotiations for the 1964 contract began October 1, 1963. A bar to serious negotiations was eliminated when the Employer agreed that one representative of each bargaining unit would be paid his regular base salary for time spent in conferences and negotiations during working hours.

The Employer's first and subsequent offers were rejected after considerable negotiation. Although no settlement was reached the Employer included a provision for a 3% general wage increase in the proposed budget which had to be submitted by November 10. The Employer then refused a union proposal for mediation because the statutory deadline for budget adoption (Nov. 20) had been reached.

The parties then resorted to fact finding. Formal hearings and informal conferences were held between the period of December, 1963 and November, 1964.

NOTE: In departing from our usual format, we are presenting here just the major recommendations of the Panel. The contentions of the parties involved were contained in the documents (more than 1000 pages) which they presented to the Panel.

FACT FINDERS' RECOMMENDATIONS: To expedite matters in making recommendations on the scores of unsettled issues, the Panel "confined its efforts

first to those demands which are clearly supported by the record and which should be granted, therefore in whole or in part; second, to those demands which seem to have sufficient possibility of merit not to be dismissed out of hand."

The Panel first recommended that a "City of Milwaukee Labor Peace Agency" be established to give due regard to the public interest in instances when an impasse is reached in public employee bargaining. The Agency should be related to the Wisconsin Employment Relations Board" only to the extent required by law, or for informal assistance and advice." The Agency should: assist in converting informal agreements to contracts; furnish an observer to the negotiations; draft a "stipulation" in the event of an impasse, which will clarify the issues and prevent the injection of "new issues" in the future; serve as a helpful go-between between the parties and the fact finder; assist in carrying out the fact finder's recommendations; and, furnish "public members" for "Study Committees." Study Committees should be established to consider issues which arise but which are so numerous as to bar consideration by the Agency as a whole.

The Panel further recommended a timetable for negotiations which would begin on February 1, of the year preceding the date of the contract. Also, it urged the appointment of a permanent negotiator by the Employer to handle the negotiations until they were at a stage in which the issues could be considered by the City Labor Policy Committee as a whole.

The Panel weighed the merits of Milwaukee's Anti-Secrecy Statute against the intent of the Legislature to foster realistic collective bargaining through Sec. 111.70 of the State Statutes. It recommended

that bargaining should be open to the public only after the City Negotiator has turned the proceedings over to the Labor Policy Committee in the later stages.

On the matter of a written contract, the Panel recommended that all finally-agreed-upon terms or conditions of employment should be reduced to writing edcept for matters which by law must be handled by Ordinance or Resolution. Such a contract should be in effect for a period of two years, "which will provide that on thirty days' notice prior to the end of the first year, a party may reopen all or any part of the contract, and that, in the absence of such notice, the contract shall automatically be renewed for another year." The Panel urged the parties to negotiate a new grievance and arbitration procedure in order to end the current practice by which the City Service Commission is placed in a position of both "advocate and judge."

In light of the late date for consideration of the 1964 contract (November, 1964), the Panel felt that all effort should be put toward reaching a general wage adjustment for 1965. It recommended that with the following exceptions, all demands for 1964 be dismissed, remanded to a Study Committee, or remanded to the parties for further discussion:

First, for the month of December, 1964, the Employer should absorb the full cost of single-person Blue-Cross Blue-Shield insurance, as well as one half of the employees' contribution for family insurance (the parties had already agreed on a plan for gradual full payment of insurance premiums by the Employer in 1965).

Second, the Employer should grant the Garbage Collectors' request for a written statement of seniority practices with respect to assign-

ments during snow removal emergencies.

Third, the Employer should grant the request of the Police to be "broken out" of the overall classification system "to concentrate on their own special problems in future collective bargaining negotiations."

Fourth, the fifty-six hour work week should be instituted for Firefighters no later than July 1, 1965 with overtime pay for hours over fifty-six after that date if the recommendation is not followed.

Finally, the Panel recommended that Firefighters should receive the ten cent weekend shift differential given to other employees for regularly scheduled non overtime weekend work provided that this does not give the Firefighters a larger amount than the others because of their peculiar schedule. The Panel also recommended that a lump sum settlement be negotiated for shift differential for 1964.

RESULT OF FACT FINDING: As of May, 1965, the results of the Fact Finding were as follows: Neither a Labor Peace Agency nor Study Committees had been established. A negotiations timetable had been put into effect. The City's negotiations were still being handled by the City Personnel Director and his staff. The City Attorney had ruled that all bargaining sessions must be "open" to the public. A one year contract, had been signed on May 7, 1965 with District #48, AFSCME, and it included an arbitration and grievance procedure. An agreement on all issues had been reached with the Policemen but not with the Firefighters or Garbage Collectors. The Employer had agreed to the recommendation to meet insurance costs for December, 1964. Policemen had been separated from the overall wage classification and Firefighters given the 56 hour week as recommended. No differential had been given to the Firefighters for weekend shifts.

Fact Finding
Digest # 19

EMPLOYER: Janesville Board of Education

UNION: Janesville Education Association

FACT FINDER: Reynolds C. Seitz

DATE OF FACT FINDER'S REPORT: February 3, 1965

BACKGROUND: An impasse developed in contract negotiations for 1965 between the Association and the School Board over three issues, all concerning pay to classroom teachers. The parties requested fact finding at the end of November, 1964.

MAJOR ISSUE 1) Size of salary increments

The Association requested a yearly increment of $25. The Employer offered a $5 increment.

MAJOR ISSUE 2) Base pay for teachers with Masters degree

The Association requested a $250 increase. The Employer offered $200.

CONTENTION OF UNION OF UNION: The Association argued that since 1959, Janesville teachers' salaries have deteriorated when compared with other Wisconsin cities. The Employer's 1965 proposal is lower than the median percentage increase in other cities. Also, in Janesville the maximum possible increases over base starting salaries are lower than they were in 1959. The Association claimed that Janesville's fringe benefits are below the median; also, percentage differentials between Masters and Bachelors teachers have been allowed to narrow. As additional evidence, the Association sought to demonstrate the Employer's ability to pay its requests.

CONTENTION OF EMPLOYER: The Employer based its offer on: inter-city wage comparisons, intra-city comparisons and total city budget needs. It demonstrated that the teachers had received regular, reasonable

salary increases. In addition, the Employer claimed that, barring unexpected income, it would have to raise taxes to meet the Association's requests.

FACT FINDER'S RATIONALE: The fact finder stressed the increasingly important role of the teacher in society. He used a study done in 1963 at Northwestern University which demonstrated that teachers' salaries fall below those paid in other occupations where the employee is a college graduate. He felt that the data presented by the parties demonstrated the Employer's ability to pay. With respect to taxes, the fact finder said: "True, this may increase the tax rate but if there is fairness in increasing teachers' salaries, the City may have to face up to an increase." He noted "a clear picture of salary deterioration," and felt that his recommendation would halt the downward trend without making Janesville "the teacher showplace of Wisconsin." In making his recommendation $5 less than that requested by the Association, he allowed for "some miscalculations or [his] assumptions."

FACT FINDER'S RECOMMENDATIONS: The salary increment should be $20 per year. The total increase for Masters degree base pay should be $250.

RESULT OF FACT FINDING: The Employer agreed to an increment of $10 for Bachelors teachers but granted only $5 to Masters teachers. The $250 Masters degree base recommended by the fact finder was accepted.

MAJOR ISSUE 3) Extra pay for extracurricular duties after 6:00 p.m. and on Saturdays.

CONTENTION OF UNION: In addition to factors noted above, the Association pointed to the growing responsibilities of teachers. The fact finder took note of this contention when he said "the demands

made on them to stage or police sporting or social events have reached a point where the teacher feels that the demand is a considerable imposition."

CONTENTION OF EMPLOYER: The Employer took the position that the duties in dispute are part of the contractual obligation of teachers. Furthermore, extra pay is not commonly granted for such duties.

FACT FINDER'S RATIONALE: The fact finder agreed with the Association's position. He noted that the teacher does not work an 8 hour day or a 40 hour week because to do good work requires many hours of outside preparation. He said: "It is legally true that teachers have to accept the assignment but. . .nothing is more detrimental to morale than to force teachers to accept extra-curricular after hours assignments." Such work should go to those interested, who should be paid accordingly for assuming the duties.

FACT FINDER'S RECOMMENDATIONS: The fact finder recommended that the Employer accept the after-hours salary schedule drawn up by the Association.

RESULTS OF FACT FINDING: The Employer granted extra pay for duty at home football games but refused to consider pay for <u>all</u> duties after 6:00 and on Saturdays.

* * *

Note: The Association asked its members to voluntarily hold their contracts until the deadline to demonstrate dissatisfaction with the settlement and with the Employer's unwillingness to accept the fact finder's recommendations.

Know

July 1956

Your GOVERNMENTS

The STATE of Wisconsin

— ALL POWERS not delegated to the federal government by the United States Constitution are reserved to the states or to the people.

— THE WISCONSIN CONSTITUTION adopted in 1848 provides the framework of state government and enumerates the powers it may exercise and those it may not.

— THE STATE creates subordinate units of government to help carry out state functions and to administer local affairs.

— THE STATE, like national and local governments, has agencies for making rules, carrying them out, and for interpreting them. These are the legislative, executive and judicial functions of government.

University of Wisconsin — EXTENSION SERVICE
COLLEGE OF AGRICULTURE, MADISON

The STATE *of Wisconsin*

by Ruth Baumann and Bruce L. Cartter*

WHAT IS THE STATE OF WISCONSIN?

WISCONSIN is part of the American federal system. More than a century ago a great stream of pioneers moved westward across the United States. By 1836 there were enough settlers in Wisconsin so that a separate territorial government was needed within the Michigan Territory. Some years later, they petitioned Congress for statehood, and in 1848 Wisconsin adopted its own constitution and was admitted as the 30th state in the Union. Although the national government is supreme, the state possesses all powers not delegated to the federal government.

In addition to having organized government, the state of Wisconsin has 56,000 square miles of land and lakes, and over three and one-half million people at the last count. Its geographical features, its climate, rainfall, water supply, soils, minerals, and forests provide a wealth of resources. Its people, rich in a variety of cultural heritages, continue to pioneer in many fields of endeavor. These are its resources. "Government" aids in harnessing these resources for many purposes. In the Constitution of the state of Wisconsin, the preamble states these purposes: "We, the people of Wisconsin, grateful to Almighty God for our freedom, in order to secure its blessings, form a more perfect government, insure domestic tranquility and promote the general welfare, do establish this constitution."

"We, the people of Wisconsin" also wanted to secure for each person certain inherent rights. Even though these rights had been guaranteed in the first ten amendments of the national constitution, the people wanted to be sure that the state government as well as the national government might not take away our liberties. So these rights were again declared in Article I of our state constitution.

Having stated the purposes of government, and having secured the rights of the people, the constitution next sets forth the framework of government. It provides for legislative, ex-

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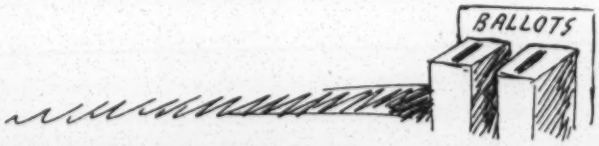
*This circular is produced through joint efforts of Ruth Baumann of the Bureau of Government, University Extension and Bruce L. Cartter of the Agricultural Extension Service, both of the University of Wisconsin.

ecutive and judicial branches. It describes the organization, powers, and functions of each branch. Through the agencies set up, the policies and rules under which we live are made, carried out, and interpreted.

To help the state carry on its activities and to provide the local services which people need, the legislature is given the power to establish local governments — counties and towns, cities and villages. The legislature also determines what these local units may and may not do.

One might say, "This is so simple. Why is it that state government has grown so big? Why do we pay so much in taxes?" Read again the preamble to our constitution which states the purposes of our government. Then consider that at the time it was written there were only 210,546 people in the state. Now there are over 3,600,000, living much closer together. Make allowance, also for the tremendous advances in the development of power, machinery, and transportation which have made possible both the utilization and waste of our natural resources. As we explore our ever-changing economy, it becomes clear that at each session of the state legislature our representatives face an increasing number of complicated problems. What they do in making laws is to interpret the state constitution. As conditions change each legislature decides policy for the wisest use of our resources in meeting the purposes of government.

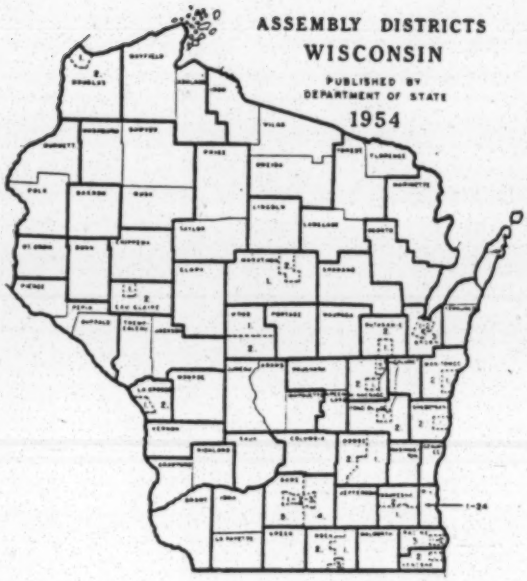


WHO DECIDES WHAT THE STATE GOVERNMENT DOES?

We do! We, the voters, elect the state's legislators. It is in the legislature that the principles of representative democracy find their most concrete expression. The main task of the legislature is to decide policy. It does this with guidance and assistance from the governor and the other state agencies. The legislature reflects our views and opinions in the laws it enacts, in the way it raises and spends public funds, by participating in making appointments, and by making studies and investigations of state activities. For example, in Chapter 59 of the Wisconsin Statutes, the legislature specifies in detail just how counties and county governments are to be set up and operated, what officers the county shall have and their duties. In other chapters it sets forth in detail the way in which these officers shall be elected. It prescribes in detail who and what property, income and corporations shall be taxed, how the taxes shall be administered, and penalties for violating the laws.

In some states the governor and the courts overshadow the legislature in importance, but not in Wisconsin. The legislature here is still the "power house" of state government.

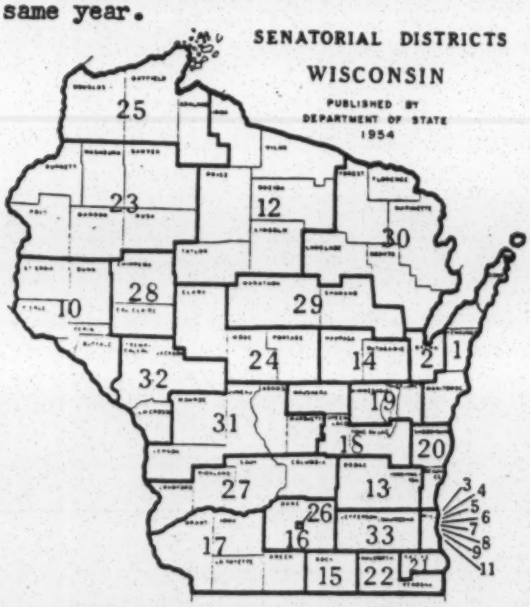
Wisconsin's legislature consists of two houses, an assembly with 100 members elected for two-year terms, and a senate of 33 members elected for four-year terms. The legislature itself lays out the districts from which members are elected.



The members of the assembly are apportioned among the assembly districts of the state, and each district is entitled to elect one member of the assembly every two years.

One senator is elected from each of the 33 senatorial districts. Senators will be elected in odd-numbered districts in 1958 and in the even-numbered districts in 1956 for four-year terms.

Candidates for the state legislature are nominated in the September primary the first Tuesday after the first Monday of the even-numbered years and are elected in the general election the first Tuesday after the first Monday in November, of the same year.



The legislature meets at the State Capitol in regular session in January of each odd-numbered year and customarily considers hundreds of bills. The sessions usually last about six months. The governor may call special sessions.

The importance of the Wisconsin legislature in making policy to carry out the purposes of government should emphasize in every citizen's mind the duties and responsibilities of citizenship. In electing these impor-

tant representatives each voter is making a decision which affects the welfare of all of the people of Wisconsin. But the citizen's concern with policy and law-making does not end when election day is past. There are a number of points in the law-making process where we and our neighbors may see to it that our points of view are considered by the entire legislature.

THE VOTERS

THE STATE LEGISLATURE

1. A group of citizens wants a new law or to change an existing law. They* see their legislator who promises to introduce a bill. Other bills come from legislative committees and state departments.
2. An assemblyman or senator, with the aid of the legislative reference service, drafts a bill and submits it to the assembly or senate. The bill receives its first reading.
3. The bill is referred to the proper committee.
4. A public hearing* is scheduled and held on the bill.
5. The committee reports its recommendations to the house or senate.
6. The bill is put on the calendar.
7. Amendments are considered and when all amendments are incorporated into the bill, it is reported back to the senate* or house*.
8. The bill is either passed or killed.
9. If passed, the bill is sent to the other house and goes through the same process.
10. When the bill has been passed by both the senate and assembly, it is sent to the governor.*
11. The governor may sign the bill, or veto it within six days.
12. If the governor signs the bill, it is deposited with the secretary of state and it becomes law upon publication.
13. If the governor vetoes the bill, it is returned to the house in which it began, and it is reconsidered.* If both houses over-ride the veto by a two-thirds vote, the bill becomes law.

* At these points the citizen may present his views.

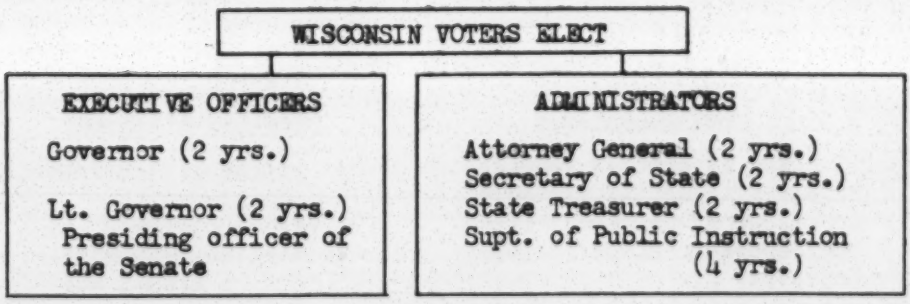
HOW DOES THE LEGISLATURE MAKE POLICY?

Laws passed by the legislature are statements of policy. Legislators, however, are not the only people who influence policy. In the process of law-making any citizen may express his views and influence policy. Chiefly one does this by membership in groups where specific issues are discussed and stands taken. Perhaps the most important of these is membership in a political party. Political parties put into a systematized statement rather general stands on a wide variety of issues. For example, each of our major political parties writes an agricultural plank into its platform. As members of a party, we usually go along with the party's stand. A farm organization, of which we may be members also, may support either party's plank on agriculture; or it may take a stand to favor neither.

The legislator's personal opinion may be influenced not only by his party's stand on agricultural issues, but also by the arguments of various groups such as farm organizations, labor unions, parent-teacher associations, organizations of public officials, manufacturers and trade associations, and so on. So there are many forces at work which influence public opinion and the legislator. Here are the formal steps in making a law. The points at which we as citizens may influence the law are marked with a star.

HOW ARE THE STATE'S LAWS CARRIED OUT

Laws in themselves are of no effect unless officials are elected or appointed to carry them out. The governor is the chief executive officer. The lieutenant governor becomes the chief executive upon the death or retirement of the governor. Other elective administrators who are responsible directly to the voters are the attorney general, the secretary of state and the state treasurer. They are elected at the same time as members of the legislature, for two-year terms. One elective administrator, the superintendent of public instruction, has a four-year term. He is elected in the non-partisan elections at the same time and in the same manner as members of the supreme court, the first Tuesday in April.



The Governor, the State's Chief Executive Officer. Article V of the state constitution provides that the governor shall be the chief executive officer of the state. He heads a $420 million-a-year business for which job he receives a salary set by the legislature of $18,000 a year. The governor's direct powers are not as great as in many states; but the public, the legislature, and the department heads generally look to him for leadership. Through his annual message, his budget recommendations, and special messages he can guide the work of the legislature. From time to time he may make statements on policy and meet informally with legislators. His power to veto bills is an important one.

The fifty-five state administrative agencies which carry out the state programs have been created by the legislatures over the years. The governor, however, aids in directing the departments.

Department heads generally accept his guidance in interpreting particular phases of programs laid down by the legislature. The governor has an important role in the budget process in determining the extent of each department's program; and the governor, moreover, with or without the consent of the senate (as specified by law) appoints the heads of all departments.

STATE ADMINISTRATIVE AGENCIES
(Total — 55)

The Heads of These Agencies Appointed by the Governor (a total of 26)	The Heads of These Agencies Appointed by the Governor With Senate Confirmation (a total of 29)
Some Typical Ones Are:	Some Typical Ones Are:
Adjutant General	Aeronautics Commission
Engineering, Bureau of	Agriculture, Department of
Purchases, Bureau of	Banking, Department of
Civil Defense, Office of	Conservation, Department
Human Rights, Commission on	Highway Department
Retirement Fund	Industrial Commission
Vocational & Adult Education, Board of	Motor Vehicle Department
Free Library Commission	Public Service Commission
Pharmacy, Board of	Public Welfare, Department of
Soil Conservation Committee	Taxation, Department of
Grain and Warehouse Commission	University of Wisconsin
	Veterans Affairs, Department of

The governor's role in the budget process is an important one, for it is through efficient fiscal management that governmental programs are carried out. The governor's role, that of the departments, and the legislature may be described simply as follows:

Governor

THE BUDGET PROCESS

1. Departments estimate needs and revenues for a two-year period.
2. Director of budget and accounts reviews these requests and then submits the budget to the governor-elect.
3. Governor-elect holds public hearings where department heads present their budgets.
4. Governor prepares biennial state budget report and executive budget bills for submission to a joint session of the assembly and senate before February first.
5. Executive budget bills are sent to the joint finance committee, and the committee makes recommendations to the senate and assembly.
6. Meantime, numerous separate appropriation bills with or without means of raising necessary revenue, may be introduced into either the senate or assembly, by individual legislators.
7. The legislature votes and approves the adjusted executive budget and separate appropriation bills.
8. The governor has a line-item veto in the case of appropriation bills. This means he may veto separate items.
9. Each department must submit to the department of budget and accounts each quarter of the biennium an estimate of moneys drawn against its budget. The director of budget and accounts has power to withhold requested funds.
10. If departments run short of funds before the end of the biennium, the emergency board passes on requests for additional funds.

WHAT ARE THE DUTIES OF THE OTHER ELECTIVE ADMINISTRATORS

The Lieutenant Governor presides over the state senate for which duty he receives $10,000 per term. He steps into the governorship if the chief executive dies or retires. His salary is supplemented by the $25-a-day he receives when he serves as governor.

The Secretary of State is the chief records clerk of Wisconsin. He is the custodian of the great seal of the state and is required to counter-sign and place this seal upon all offici-

al acts of the governor. Further, he is the central election officer of the state. This office licenses out-of-state corporations and accepts papers from Wisconsin corporations. The Secretary of State also issues and records city charters, village corporation and town organization papers. He would become acting governor if both the governor and lieutenant governor were out of office or away from Wisconsin. His salary is $10,000 a year.

The Attorney General is the state's chief law enforcement officer. He represents the state in all civil actions in which it is a party, in both state and federal courts and before the Wisconsin and United States Supreme Courts. He also represents the state in all criminal actions in the supreme court. He is the attorney for the various state deparmtents. An important duty is to provide official opinions on questions of law to guide state and local officials. His salary is $15,000.

The State Superintendent of Public Instruction heads the department which exercises general supervision over all elementary and secondary schools and certain special schools, certifies public school teachers, and administers the system of state aids for education and transportation. The superintendent is also a member of the university and state college boards of regents. His salary is $15,000 per year and he is elected for a four-year term.

The State Treasurer is the custodian of all state funds; but he has little to say about their disposition. For example, among his duties is the distribution of the normal income tax collections to counties, towns, cities and villages according to the directions specified in the statutes. The important thing to remember is that he is a custodian of state funds. His salary is $10,000 a year.

State Senators are repeated here merely because they have the power to confirm or reject many of the governor's appointments. (A legislator gets $200 a month for the duration of his term, plus mileage for a round trip each week between his home and Madison while the legislature is in session.)

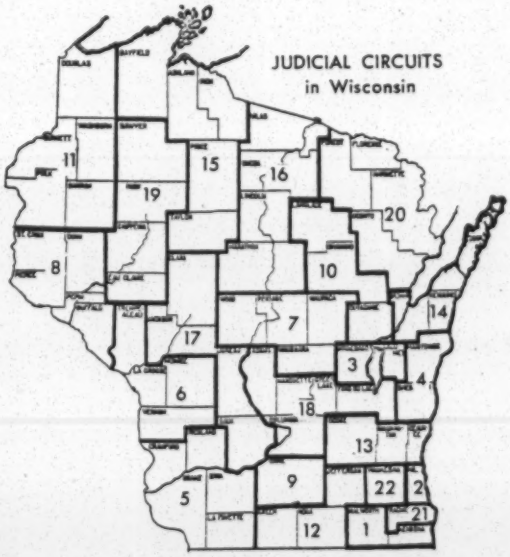
WHO INTERPRETS AND APPLIES THE LAWS?

The Constitution of the state of Wisconsin, Article VII, Section 2, sets up a court system to provide justice for the people of the state: "The judicial power of this state, both as to matters of law and equity, shall be vested in a supreme court, circuit courts, courts of probate, and in justices of the peace." These courts are the constitutional courts. In addition, by the authority given in the Constitution, the legislature has established statutory courts: superior, municipal, civil, district,

small claims, police, juvenile and domestic relations. The kinds of cases these statutory courts may hear vary according to the law which establishes each one.

The Supreme Court. The Supreme Court consists of seven justices elected by the people for ten-year terms. Justices are elected in the April elections, but no more than one may be elected in any one year. All judicial elections are nonpartisan, with party designations or slogans being prohibited. The statutory salary of the justices is $14,000 per year, and the chief justice receives an additional $500.

The supreme court is the final authority on the constitution of the state. It is the highest judicial tribunal for any action begun in the lower courts, except in cases when a question under the Federal Constitution is raised. In those cases the appeal is to the Supreme Court of the United States. The state Supreme Court hears and decides from 250 to 300 appeals each year from the circuit, county and other courts, and about 20 applications for the exercise of its original jurisdiction.



The Circuit Courts. Circuit Courts are the principal trial courts of the state. Wisconsin is divided into 22 judicial circuits. The Dane County circuit has two branches, and the Milwaukee County circuit has 10 branches, so there are actually 32 circuit judges. Circuit judges are elected in the April preceding the January in which their six-year terms commence. The circuit courts have original jurisdiction in most matters, but they also hear appeals in certain cases from justice, municipal, and some special courts.

The County Courts. Each county in the state has a county court presided over by a judge elected in the county. These courts handle matters dealing with the estates of deceased persons. In about a dozen counties the county judge handles the aid for dependent children, and in about 40 counties he serves also as juvenile court judge. The old age assistance law operates under these courts. By law, 47 county courts may hear criminal and civil cases.

Justice Courts. These are the most numerous courts in the state. The justice of the peace holds court in the city, town, or village in which he is elected. He may hear cases involving $200 or less, or criminal cases for which the punishment is not more than six months nor the fine more than $200.

HOW DOES THE STATE "MAKE ENDS MEET?"

The legislature, like the family, tries to "make ends meet." We frequently forget, however, that the state's population is still growing and we are living closer together. At the same time we constantly are raising our standards as to what is a good education, good health, a good highway. More services and better quality services cost more money. Then too, new inventions and discoveries call for continuous changes in the services that people ask of state government. To mention only one example, the development of atomic power may necessitate state licensing and regulation of this new source of energy.

Some of the state's services (like the building of highways) may be financed in part from licenses and fees paid by those who receive the service. Others, like education and welfare, cannot be supported out of income that the state departments receive for some of their services. In those cases all of the state's taxpayers share the cost.

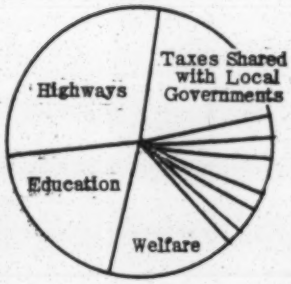
The family is accustomed to budgeting and saving for a rainy day. In an emergency, or for a long-term investment, the family can borrow so long as its credit is good. The state of Wisconsin, however, is not in the same position, for Article VIII of the state constitution says that the public debt shall never exceed $100,000.

The budget process has been discussed as a sharing of responsibility between the governor and the administrative departments. It is the legislature, however, that is responsible for levying the taxes and appropriating the money to pay the state's bills. As stockholders in the state's 420 million-dollar-a-year business we will want to understand for what purposes that money is spent and from what sources it comes.

How the State's Income Is Spent. In 1954-55 highways, education, taxes shared with local governments, and welfare accounted for over 88 per cent of all state expenditures. This left only 12 percent for all other costs of government. Here is a summary of how the state's money was spent.

Purpose	Amount	%
Highways	$92,874,513	24.18
Education	87,713,832	22.84
Taxes shared with local governments	80,946,876	21.08

Purpose	Amount	%
Welfare	$ 71,332,554	18.57
National resources	12,937,064	3.37
General government	8,626,681	2.25
Protection of person & property	8,693,948	2.26
Employee retirement fund	12,178,192	3.17
Health	4,725,875	1.23
Agency distributions	2,805,919	.73
Veterans	1,226,816	.32
Subtotal	384,067,270	100.00
*Transfers to other funds	38,448,003	
Total expenditures	$422,515,273	



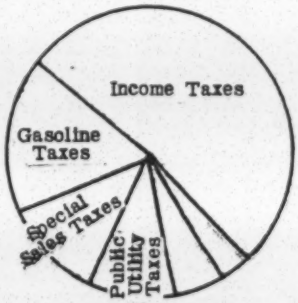
*For Example: This includes money set aside for specific purposes such as the state's contribution to the Social Security and Retirement Fund, and the money that is set aside for state buildings.

Where the State's Money Comes From. Over the past four years about 60 percent of the total revenues of the state have come from taxes. The second largest source of revenue has been federal aids, amounting to 13-15 per cent of the total revenue. Licenses, which provide about 8½ per cent of the revenue, are the third most profitable source of funds. Contributions made by the employees and employers to retirement and other funds account for roughly 4 per cent of the revenue.

Since the major source of state revenue is taxes, let's see which ones bring in the most money. About one-half of total state taxes collected in the fiscal year 1954 came from individual and corporation income taxes. The gasoline tax brought in nearly 18 per cent. The special sales taxes (on liquor, beer, cigarettes and oleomargarine) brought in about the same amount as the public utility tax, just about 10 per cent.

State Tax Revenues*
1954-55

	Amount	%
Income	$ 120,277,861	53.1
Gasoline	40,372,376	17.8
Special Sales Tax	22,760,913	10.0
Public Utility	26,373,809	11.6
Miscellaneous	7,268,362	3.2
Inheritance & Gift	7,648,586	3.4



*Since state tax collections account for only $227,502,310 of total state revenues, it should be borne in mind that the additional revenues (about 40% of the total) come from federal aids, licenses, retirement contributions, investment income and so on.

AN ILLUSTRATION OF HOW THE STATE'S WORK GETS DONE

When one considers the relatively small handful of elective and appointive top officials who are responsible for carrying out the tremendous volume of laws in the statute book, there is good reason to ask, "Just how does the state's work get done?" Over 50 state agencies are charged with carrying out specific laws. Excluding legislative and court employees, the state administrative agencies as of July 1955 employed about 13,500 persons on a regular basis to perform a great variety of tasks. Perhaps an illustration of one administrative agency's work would make the operation of government more meaningful to us. Since the state department of agriculture carries out laws which affect both consumers and producers of agriculture products, let us use this agency to show more clearly just how its work is accomplished. Our illustration can be simplified by limiting the discussion to one commodity — milk.

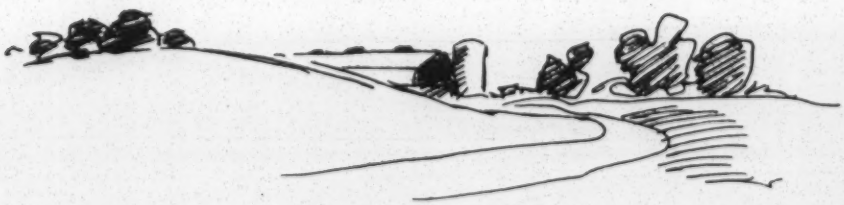
The Wisconsin Department of Agriculture: An Illustration. The department's first function is the administration and enforcement of all agricultural laws and regulations. In addition, the department provides services and assistance to producers and consumers through guidance in production, processing, manufacturing, assembling, grading, advertising, and merchandising of the state's farm products.

Policies of the department are formulated by the Board of Agriculture composed of seven Wisconsin men experienced in farming. Members are appointed by the Governor with the consent of the senate.

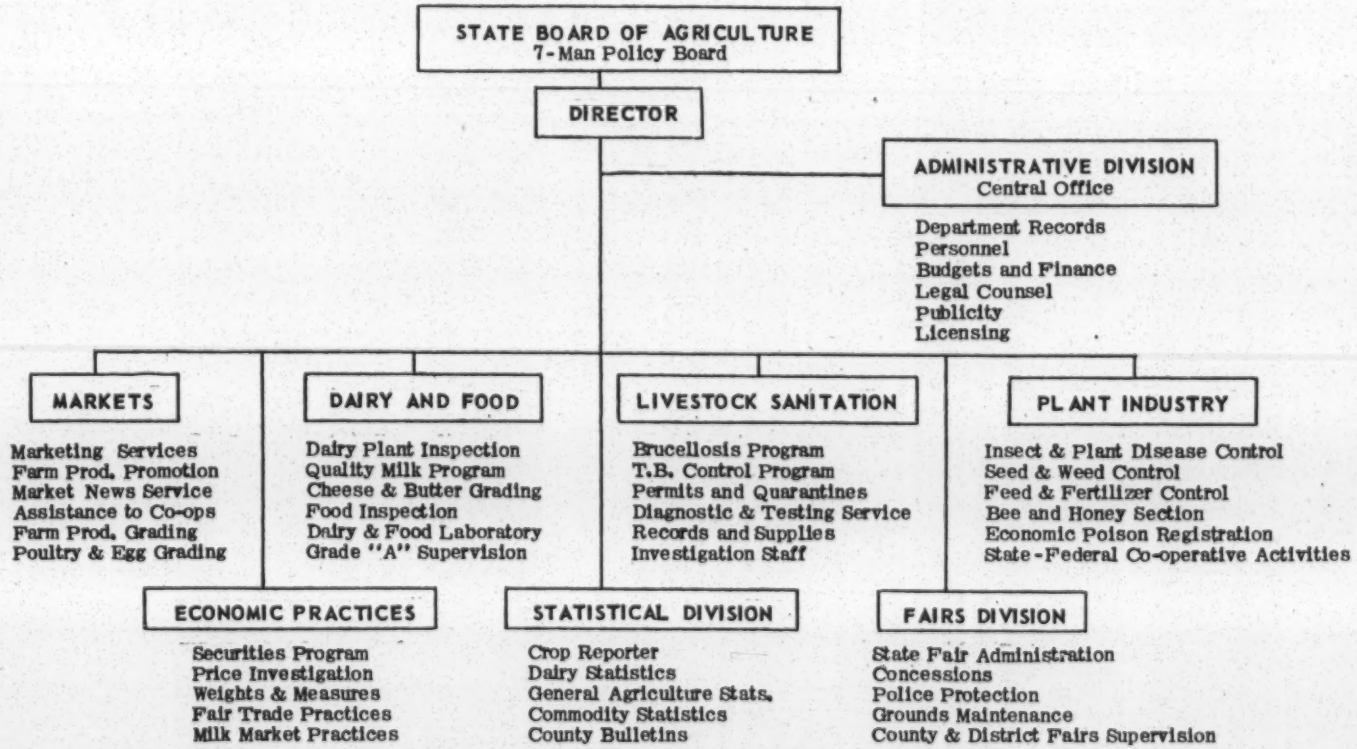
The director, as administrative and executive head of the department, is responsible for carrying out department policies and activities. The department's functions are carried out by eight divisions. Each division has several sections, each charged with responsibilities in specific fields of agriculture. The director appoints the heads of the various divisions with the consent of the board of agriculture.

On occasion, the legislature may authorize the appointment of special advisory committees to divisions or sections of the department.

The work of the department is supplemented by the College of Agriculture of the University of Wisconsin, which functions mainly in the fields of agricultural research and education.



ORGANIZATION AND GENERAL FUNCTIONS OF WISCONSIN STATE DEPARTMENT OF AGRICULTURE *



* Source: Functions—Organization—Personnel of the Wisconsin State Department of Agriculture, 1954

Take milk, for Example. With this structure and organization in mind, let us see which agencies are concerned with carrying out some of the laws which the legislature has passed in regard to one commodity — milk.

1. In order to carry out certain laws, the department is authorized by the legislature to make rules and regulations about how the law shall be administered. The first question, then, is "how does a regulation come into being?" Let us assume that a new problem has come up throughout the state about a strange disease that is affecting cattle. The Livestock Sanitation Division has the responsibility for the prevention, suppression, control and eradication of communicable diseases among domestic animals. The division would proceed to determine the nature of the disease through its diagnostic service provided in its Disease Control Laboratory. The University might well be asked to conduct necessary research to gain further information on the exact nature of the disease and how it could be brought under control. All findings would be reported to the Livestock Sanitation Advisory Committee which is named by the director of the State Department of Agriculture.

The Advisory Committee might then recommend to the department that a specific regulation be drawn up by the department. However, before the department does this the public must be consulted. The time and place of public hearings is announced so persons or groups of persons may state their positions on the issue. On the basis of the findings, the department may or may not issue an order or regulation. On the other hand, the issue may be of such importance that the department might ask the state legislature for a law to help correct the situation.

Let us assume that the Department issued an order setting forth the new regulation. It would be up to the Enforcement Section of the Livestock Sanitation Division to make inspections to make sure the farmers were complying with the regulation. All required testing and diagnostic service would be done by the Disease Control Laboratory and technicians and veterinarians in the field.

2. The farmer wants to be sure that the feeds for his stock contain the specified ingredients. The Feed and Fertilizer Laboratory of the Plant Industry Division analyzes all commercial feeds sold in Wisconsin and enforces the law for his protection. Where a violation of the law is found through analysis, the Legal Counsel is informed and enforcement action is started.

The Plant Industry Division also gives approval to insecticides, such as those used in fly control.

3. Assuming now that the farmer's herd is disease-free, there is the possibility that there may be unsanitary conditions on the farms, in the processing plant, or in the establishments

where milk is sold. The Dairy and Food Division has the responsibility for making and carrying out all the rules and regulations relating to milk (and other food) standards. The Dairy Inspection Section of this Division enforces the rules and regulations by inspecting farms and dairy plants and the Dairy and Food Control Laboratory analyzes milk (and food) for composition, adulteration, extraneous matter and bacteriological quality.

Quality standards, grading, and labeling rules and regulations are also the responsibility of this division.

A Food Standards Advisory Committee (a five-member committee appointed by the Governor) assists the department in the formulation of food standards.

4. Let us further assume that the farmer has a disease-free herd, and that he has met milk production and quality standards. He may have a serious problem in marketing his milk. This is where the services of the Division of Markets come into the picture. In addition to giving advice about marketing milk, and promoting its consumption, this Division supplies daily, weekly and monthly market reports, and provides auditing services at cost to cooperative organizations.

5. In selling his milk to the processor, the farmer may find himself dealing with an unscrupulous operator. The Division of Economic Practices through its dairy plant security program has helped to insure payment to the farmer, and through its Weights and Measures Section has insured him fair weights and measures. Special price and business investigations are carried out also by this division in an effort to see that the Wisconsin farmer is getting a fair deal in comparison to other states.

6. Conditions within the state and throughout the country may make it difficult for the farmer to stay in the milk production business. He might even face the necessity of making decisions about what types of agricultural production he might better engage in. The Agricultural Statistics Division collects, analyzes, interprets and distributes data which show trends and changes in marketing and prices of dairy products, livestock and crops. After studying this information he may make his decisions and lay future plans.

This has been a quick over-view of the way in which the State Department of Agriculture operates in serving the farmer, the processor, the distributor and the consumer. Some of these activities are centered in Madison, but many of them are carried out by employees of the department who travel the length and breadth of the state. General policy is set forth by the state legislature in the statues; this in turn is translated into more detailed policy and regulations by the State Board of Agriculture to be carried out by the director to whom all di-

vision heads are responsible. Throughout, the governor aids in guiding, directing and interpreting the programs and the services of the department.

THE SOLUTION OF PUBLIC PROBLEMS REQUIRES TEAMWORK

Remember that the state's work may be carried out and supplemented either by the cities and the counties or in cooperation with the counties, or in cooperation with the counties and the federal government. The county extension work illustrates a cooperative program.

County Extension Work Is A Good Illustration of Local-State-Federal Cooperation. There are three important ways in which the U. S. Department of Agriculture, the State of Wisconsin, and the county work together to bring cooperative agricultural and home economics extension work into a county, namely: (1) cooperative financing of the program, (2) joint appointment of the extension agents, and (3) cooperative programming.

The work of the extension agents--county agents, home agents, and 4-H club agents--is supported entirely by public funds from three sources: (1) federal grants-in-aid to the state, (2) state appropriations, and (3) funds appropriated by the county board of supervisors. The federal and state funds are managed by the College of Agriculture of the University of Wisconsin. These funds pay part of the agent's salary and for the services provided by the College of Agriculture in the way of training and supervision of all agents throughout the state. Each county's funds are managed by a County Agricultural Committee. These funds pay the rest of the agent's salary and provide office help, equipment, supplies, and travel expenses.

The extension agent holds a three-way appointment. He (or she) is a member of the University faculty by appointment of the Board of Regents. He holds an appointment as a member of the U. S. Department of Agriculture. And he is a county employee. In practice the College of Agriculture determines whether candidates for county extension positions meet University requirements and recommends persons for consideration of the County Agricultural Committee. The Committee negotiates with candidates and makes its selection. The terms of his employment are set down in a written agreement between the College and the County Agricultural Committee.

The county extension program of work is arrived at through teamwork between the local people who function through a county extension program planning committee, the county agricultural committee, and the county and state extension service. State plans of work are a composite of local and county program needs and interests. These state plans of work are submitted to and approved by the federal extension office

of the U. S. Department of Agriculture. Responsibility for conducting county extension programs is divided between county extension agents and local leaders chosen by the people themselves. The major functions of the state supervisory and specialist staff are: (1) to locate, work with, and train county extension agents, and (2) to provide educational services requested by the local people themselves.

Neither the U. S. Department of Agriculture, the University, nor the county is "boss" of the cooperative extension work. Each has its own responsibilities and authority as arranged by law and through agreement with others. It is an excellent example of the teamwork that is required to make democracy work.

TEAMWORK IS A PERSONAL RESPONSIBILITY

Our governments provide many services cooperatively. Town, village, city, county, state and national governments work together effectively only to the extent that we understand how our federal system works. Governments are not once, twice or thrice removed from people. They are the life blood of our daily activities. What our governments do, and how well they serve the public depends upon each citizen. Our elected representatives speak for the people. The people, in turn, have a responsibility to know enough about the operations of government so that they can understand what laws are needed and why. Only in this way can we keep our governments responsive to our needs and wishes. This involves work.

Wisconsin citizens, both men and women, and their families have never shied away from work. Many of them make an earnest effort to "Know Our Governments." Some who have examined town and county government carefully are taking a more active part in these governments. Experience is a good teacher. Those who "get their feet wet" in government, politics, and organizations which influence public policy not only find the experience rewarding personally, but they understand better the problems that public officials face. They find that the solution of public problems in our democratic federal system requires teamwork—teamwork among citizens and public officials.

May 4, 1960

TO: Members of Extension Egghead Discussion Group

FROM: James A. Schwalbach

Meeting May 10 at 8:00 p.m. at Robert Schacht's home, 1428 Vilas Avenue.

I suggest the publication "Kitsch and U" by Peter E. Siegle as the basis for our discussion at our May meeting. This publication points up the problems which accompany the efforts of a University Extension Division to build an appreciation of "Real" as to "Mass" culture.

AFSCME

Problems

(2nd) Wages — Misclassification
directly to Finance Com.
~~Sub~~ Com of City Council

Stating point — Chm. of Civil Serv. Com.
Union presents its case
Finance Com "Arbitrates"
not negotiates

(3rd) General wage increases
Union sits with finance com
Conferences with Civil Service Com
Finance Com acts as judge

(1st) grievances — directly handled by
local, shop steward & supervisor
in the dept.

[Labor Rel. for city of Mich is present
politics — "disruptive" tactics — needles etc.]

institute on the public employee union and public officials

june 7-8, 1960

hotel schroeder

milwaukee

BUREAU OF GOVERNMENT
UNIVERSITY EXTENSION DIVISION
THE UNIVERSITY OF WISCONSIN

3 hours
9:-12

PROGRAM

June 7

8:30-9:30 **Registration**

9:30-10:30 **The Emergence of Public Employee Unionism**—A picture of the dynamic historical development of public employee unionism and potential trends and developments in this area of governmental administration

10:30-10:45 **Break**

10:45-11:45 **Unionism in Action**—Environmental problems related to public employee union organization in a Wisconsin community

12:15-1:30 *Luncheon Speech*—**Who Is a Public Employee?**—What factors must be considered in defining what workers fall within the jurisdiction of public employee unions?

2:00-4:15 *Panel*—**Public Employee Unions: Prospects and Challenges**

6:30-8:30 *Dinner Speech*—**A Public Official's Perspective on the Philosophy of Unionism**

June 8

9:00-11:45 *Workshops*

10:15-10:30 **I. Collective Bargaining Procedures**—The decision making and responsibility of each side involved; the public's stake in bargaining procedures of public employee unions also may be examined

II. Public Employee Unions and the Law—Constitutional and legislative actions affecting the unions at local, state, and federal levels

III. Grievance Procedures—This workshop will deal with the grievance procedure itself, and the formal and informal relations existing in grievance situations between public employees and public officials

IV. Inside the Union—A survey of the internal organization of a public employee union—Attention will be given to leadership and the power structure involved

12:15-1:30 *Lunch*—**Luncheon Table Evaluation of the Institute**

2:00-3:30 **Reports From Workshop Leaders and Presentation of Certificates**

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Bureau of Government, University Extension Division, The University of Wisconsin

ADMINISTRATION

Conrad A. Elvehjem, Ph.D., D.Sc., President of the University

L.H. Adolfson, Ph.D., Dean, University Extension Division

James R. Donoghue, Ph.D., Director, Bureau of Government

Leo F. Redfern, Ph.D., Assistant Director for Training, Bureau of Government

A. Clarke Hagensick, Assistant Director, Milwaukee Office, University Extension

One of a series on the Education and Training Program for Public Officials by the Bureau of Government.

GENERAL INFORMATION

This is a two-day institute focusing on problems, procedures, and responsibilities involved in the relationship among the public employer, public employee, and the union.

The underlying purposes of this institute are to acquaint public officials with various aspects of the union movement and the rights, responsibilities, and duties of employer, employee, and the union.

Over fifteen instructional hours will be devoted to the history of public employee unionism; problems involved in union organization; legal aspects of the unions; environmental limits; challenges and prospects; collective bargaining procedures; and internal organization.

The enrollment will be limited to 100. A $25 registration fee includes the price of coffee breaks, two luncheons, and a dinner.

Applications for this institute should be sent to:

Bureau of Government, Milwaukee Office
University Extension Division
The University of Wisconsin
606 West Wisconsin Avenue
Milwaukee 3, Wisconsin

ENROLLMENT FORM

Name _____

Address _____

☐ Fee Enclosed ☐ Will Pay at Registration

(Make checks payable to: *University Extension Division.)* (Additional names and addresses of those wishing to enroll may be attached to this form.)

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THE UNIVERSITY OF WISCONSIN
University Extension Division

April 28, 1960

Mr. Emory Via
School For Workers
University of Wisconsin
Madison, Wisconsin

Dear Mr. Via:

Just a note pursuant to our conversation of last week concerning your contribution to our Institute on Public Employee Unions and Public Officials. I was able to locate leaders for all the workshop sessions except the one entitled, "Inside The Union."

As you mentioned over the telephone this topic would not be entirely repugnant to you so I have placed your name on the staff as workshop leader for this session.

I would like to thank you for your very splendid cooperation on this matter.

Sincerely

Leo F. Redfern

Leo F. Redfern
Assistant Director

INSTITUTE ON THE PUBLIC EMPLOYEE UNION
AND PUBLIC OFFICIALS

GUEST LECTURERS AND STAFF MEMBERS
June 7, 8, 1960

June 7 Tuesday	9:30-10:30	The Emergence of Public Employee Unions	Dr. Alton Johnson, Ass't. Prof. of Commerce and National Agriculture Extension Center, University of Wisconsin
	10:30-10:45	Coffee Break	
	10:45-11:45	Unionism In Action	Mr. Robert Oberbeck, Executive Director, Wisconsin Council of County and Municipal Employees
	12:15-1:30	Lunch and Lecture Who Is A Public Employee?	Mr. Arthur Saltztein, Former Administrative Ass't. to Mayor of Milwaukee
	2:00-4:15	Panel Public Employee Unions: Prospects and Challenges	Mr. Arnold Zander, President of the American Federation of State, County and Municipal Employees, Washington, D.C. Dr. Henry Hart, Professor of Political Science, University of Wisconsin Mr. Richard Rice, Counsc Affiliated Taxpayers Committee, Milwaukee, Wisconsin
	6:30-8:30	Dinner A Public Official's Perspective On The Philosophy of Unionism	Mr. Frank Zeidler, Former Mayor of Milwaukee
June 8 Wednesday	9:00-11:45	Workshops: 1. Collective Bargaining	Dr. Reed Tripp Professor of Economics University of Wisconsin

10:15-10:30
Coffee Break

Union "dogma"

dual unionism

differentiate from jurisdiction

Does exclusion Taft Berg mightily bar any groups from the political process

minority groups —

Zander: in employment relations there is a limitation, not in general

Phil Recommend

(d) "Celebrity a temple of paid publicity"

I'll not retire until 5 or 6 years — wouldn't date due until then —

Zander: Prefer not to go into pol. area — hard in Admin set up — works very well when relations are mutual —

(Reuther: 200 employees jailed for "dressing" Ford (1946?) collected on a vacant lot)

Zander: Responsibility tied to security

	2. Public Employee Unions and The Law	Mr. John Lawton, Counsel for the Wisconsin Council of County and Municipal Employees.
	3. Grievance Procedures	Dr. David Johnson, Assoc. Professor of Economics, University of Wisconsin
	4. Inside The Union	Mr. Emory Via, School For Workers, University of Wisconsin
12:15-1:30	Lunch and Lecture Impact of Public Employee Unions	Mr. John Doyne County Executive Milwaukee County
	Luncheon Table Evaluation of The Institute	
2:00-3:30	Workshop Reports	

Oberheel's recital of complaints is much like
that of any organizing situation — if you accept his facts —
I'd be inclined to do so — Ken discrimination, "intimidation" —
overtime case of local pressure —

Lack of citizen groups or Newspaper "interest" — opposition
in union demands —

Bettment opposition League of Municipalities } "Management
County Boards Assns } Association"

Element of fear — how relate to structure & Mgt. attitude —

Union must want to: Formal Situation — Law / Civil Service
The Pol. Situation
Changing Politics & officers
Internal Unions

Union leader / Reasonable man — cooperation

Can County Bds spend time on personal matters
when meets once/mos or once/3 mos —

Bayon
1) Repates
2) Blackboard
chalk, eraser
3) Reporting & Excel

Problem of Mayor — chief ex. in law & practice
His personality is predominant —

Hard to stay — 100% in 10 years —
want to be dealt with realistically —

"Public Service"

RECENT DEVELOPMENTS IN PUBLIC EMPLOYEE UNIONISM*

A. UNIONIZATION: More and more civil servants are organizing their own associations, and those already in existence are growing. Well over 300,000 are members of independent State organizations, and the AFL-CIO affiliate, which includes both state and local employees, numbers about 200,000. Federal groups include hundreds of thousands, with members of postal organizations in the majority. Last year the International (Brotherhood of Teamsters) announced a plan to organize the police throughout the country, and a start was actually made in New York, although it came to naught because of united opposition from the Mayor, the Police Commissioner and the public. Increasingly, organized employees are seeking to transfer to the public service labor relations practices of private industry, including collective bargaining, check off of union dues, and, in extreme cases, the strike.

Both the Chairman of the U.S. Civil Service Commission and the President's Personnel Adviser urged more attention to improving employee-management relations and consultation with employee leaders.

B. EMPLOYER-EMPLOYEE RELATIONS STUDY: In 1946 a special committee of the National Service League after several month's study, issued a report, Employee Organizations In The Public Service, which at once assumed almost the status of a classic document. Convinced that the march of events in the intervening years gave reason for a new report the League made ambitious plans for appointment of a committee to embark on a re-study of the whole problem during 1959-1960. The expected financial support proved unavailable, however, so the decision was made to proceed on a modest basis. Instead of making a new survey of the whole field of public employer-worker relations, the 1946 report will be brought up to date. Perhaps some problems can now be treated more forcefully than was possible in 1946.

* Good Government, Helen Drummond, editor, March 1960, pp. 1-3, Official Publication of the National Civil Service League, 315 Fifth Avenue, New York 16, New York.

4-27-60

Some Suggested Differences Between Types of Unions

Craft Unions	Industrial Unions	Federal, State, County Municipal Unions
1. Numerous small employers	1. Large employers	1. Includes both large and small employing units.
2. Primarily skilled employees	2. Primarily unskilled employees	2. Both skilled and unskilled employees.
3. Multi-employer bargaining	3. Individual Company bargaining	3. Individual employing unit bargaining.
4. Irreplaceable employees	4. Replaceable employees	4. Combination of replaceable and irreplaceable employees.
5. Uniform wage rates	5. Graduated wage rates	5. Graduated wage rates.
6. Individual security through apprenticeship program	6. Individual security through seniority system	6. Individual security through tenure system?
7. Craft jurisdiction	7. Steward system	7. Steward system?
8. Control of labor-saving machinery and work rules	8. Control of speed of work (assembly line)	8. Control of output of work?
9. Simple grievance procedure	9. Complicated grievance procedure	9. Potentially complicated grievance procedure?
10. Small locals	10. Large locals	10. Potentially large locals?

BUREAU OF GOVERNMENT
UNIVERSITY OF WISCONSIN
UNIVERSITY EXTENSION DIVISION

INSTITUTE ON THE PUBLIC EMPLOYEE UNION AND PUBLIC OFFICIALS
JUNE 7 - 8, 1960
SCHROEDER HOTEL

ROSTER

1. Barj, H. E., Milwaukee Vocational and Adult School, 1015 No. 6th, Milwaukee

2. Bethke, Albert H., President - Milwaukee Government Service League, 125 East Wells Street, Room 230, Milwaukee

3. Buckley, Thomas J., Finance Committee Chairman, City of Hartford, Hartford

4. Budzien, John, Alderman - City of Milwaukee, 200 East Wells Street, Milwaukee

5. Doyne, John L., County Executive - Milwaukee County Civil Service Commission Room 206, Court House, Milwaukee

6. Duszynski, Edwin, Director of Public Works - City of Appleton, Appleton

7. Else, Art - City of Milwaukee, 200 East Wells Street, Milwaukee

8. Falk, H. C., President - Village of Rothschild, Rothschild

9. Garnier, Robert - City of Milwaukee, 200 East Wells Street, Milwaukee

10. Gottlieb, Frederick E., Commissioner - Village of Menomonee Falls, Menomonee Falls

11. Graye, Dirke V. - Motor Vehicle Department, State of Wisconsin, Madison

12. Hause, Laurel W., County Board Chairman - Court House, Waukesha

13. Jury, Don - City Attorney, City of Appleton, Appleton

14. Knoll, Vernon - Bureau of Personnel, State of Wisconsin, Madison

15. Krause, Robert - City of Milwaukee, 200 East Wells Street, Milwaukee

16. Kurtz, A. R., Personnel and Administrative Officer - State Capitol, State Department of Agriculture

17. McMulley, Francis J. - Milwaukee Public Library and Museum, Local #426, Milwaukee

18. Medin, Myron J., Jr. - City Managers Office, City Hall, Fond du Lac

19. Nageli, Norval, Bureau of Street Sanitation, City of Milwaukee, 200 East Wells Street, Milwaukee

20. Ofensend, Allan J. - City Hall, Eau Claire

21. Owens, Lloyd G., Vice Chairman - Waukesha County Board, Rt. 4, Box 118 Oconomowoc

22. Parkinson, George, Director - Milwaukee Vocational and Adult School, 1015 North 6th Street, Milwaukee

23. Priebe, Kenneth - Appleton Street and Sanitation Commission, City of Appleton

24. Provinzano, Angelo - City Service Commission, Milwaukee

25. Reuter, John, Classification and Wage Supervisor, Room 206, Court House Milwaukee

26. Ricking, Merle - Milwaukee Public Library, City of Milwaukee, Milwaukee

27. Romano, Anthony P., Chief Examiner, Room 206 Court House, Milwaukee

28. Schlieve, Robert - Teamsters Local 563, Appleton

29. Schmidt, Harold W. - City of Milwaukee, Council 48; City and County Employees Milwaukee

30. Schneider, Thomas - Appleton Street and Sanitation Commission, City of Appleton

31. Sharpless, Norman - City of Milwaukee, 200 East Wells Street, Milwaukee

32. Scholter, Anthony J. (Mrs) - City Service Commission, City of Milwaukee

33. Simon, Phil - Teamsters Local 75, Green Bay

34. Trindl, Ralph - DPW Personnel Tech. IV, City of Milwaukee

35. Weiss, George, Assistant Supervisor, DPW Garbage Bureau, City of Milwaukee

36. Werner, John G. - City of Milwaukee, Council 48; City and County Employees, Milwaukee

37. Wessing, Rheinhart, Newspaper Reporter - City of Appleton Post Crest, Appleton

38. Zancanaro, John C. - City of Milwaukee, Council 48, City and County Employees, Milwaukee

39. Zill, Robert - Village of Bayside, 9075 North Regent Road, Milwaukee 17

40. Zinos, John C. - City of Milwaukee, Council 48, City and County Employees, Milwaukee

Robt. A Johnson
Bakery & Conf (AFL-CIO)
Disciplined member for
Knowing picket line by
L-G Standard — Co.
now has
filed a case against
union.
NLRB

University of Wisconsin
Bureau of Government Education and Training Program

EVALUATION FORM

INSTITUTE ON PUBLIC EMPLOYEE UNIONS AND PUBLIC OFFICIALS
June 7, 8, 1960

Your cooperation in completing this evaluation form will aid us in improving our education and training programs for public officials. Please be candid in your evaluation and comments and please do not sign the form unless you wish to do so. Turn it over to the program coordinator before you leave. Thank you for this assistance.

GENERAL

1. This institute, as a whole, was: ____ extremely informative and useful ____ average in information and usefulness ____ not very informative and useful.

2. In general, the material presented in the institute was:

_____ well balanced and comprehensive

_____ of average balance and comprehension

_____ quite poor in respect to balance and comprehension

3. Did the treatment of the subject by the techniques employed provide:

_____ nothing new and interesting

_____ a few new and interesting aspects

_____ many new and interesting aspects

4. The two-day period for this institute was:

_____ adequate

_____ too long

_____ too short

5. Please rank in order of your preference (i.e. 1 - first choice, 2 - second, etc.) the methods used in the institute:

_____lectures

_____panel

_____workshops

_____luncheon and dinner talks

SPECIFICS

1. In regard to session one, "The Emergence of Public Employee Unions," I found (check one in each category):

   a. the subject matter was____interesting and new;____interesting but not new; _____ new but not interesting; ____ neither new nor interesting.

   b. the presentation of material was ____very good; _____average: _____poor.

   c. the time was _____too long; _____adequate; _____too short.

2. Inregard to session two, "Unionism In Action", I found:

   a. the subject matter was _____interesting and new; _____interesting but not new; _____new but not interesting; _____ neither interesting nor new.

   b. the presentation of material was _____very good; _____ average; _____poor.

   c. the time was _____too long; _____adequate; _____too short.

3. In regard to session three, "Who Is A Public Employee?", luncheon speech, I found:

   a. the topic was _____interesting and pertinent; ____not interesting but pertinent; _____interesting but not pertinent; _____neither interesting nor pertinent.

   b. the speaker was ____very effective; _____fairly effective; _____ineffective.

   c. the speech was ____too long; ____too short; _____adequate.

4. In regard to session four, "Public Employee Unions: Prospects and Challenges", panel, I found:

   a. the session was ____informative and interesting; ____was informative but not interesting; ____was interesting but not informative; _____was neither informative nor interesting.

   b. the panel members were _____very capable; ____of average capability; _____not very capable.

   c. the time was _____adequate; _____too long; _____too short.

5. In regard to session five, "A Public Official's Perspective On The Philosophy of Unionism", dinner speech, I found:

   a. the subject was ____very interesting and pertinent; _____ not interesting but pertinent; ____pertinent but not interesting; _____neither pertinent nor interesting.

   b. the speaker was _____very effective; _____of average effectiveness; _____ineffective.

   c. the time was _____too long; ____too short; _____adequate.

6. In regard to session six, Workshops, I attended:

   1. _____(name) 2. _____(name)

   In regard to Workshop 1, I found:

   a. the subject matter to be _____very valuable; _____of average value; _____of little value.

   b. the speaker to be ____very competent and interesting; ____ competent but not interesting; _____interesting but not competent; _____neither competent nor interesting.

   c. the time to be ____too short; _____adequate; ____too long.

   In regard to Workshop 2, I found:

   a. the subject matter to be ____very valuable; ____of average value; _____of little value.

   b. the speaker to be ____very competent and interesting; ____ interesting but not competent; ____competent but not interesting; _____neither competent nor interesting.

   c. the time to be ____adequate; _____too short; ____too long.

7. If the institue were to be strengthened, in my opinion the major change should be:

8. General comments (use reverse side if necessary):

5/17/60

FURTHER READINGS CONCERNING PUBLIC
OFFICIALS, PUBLIC EMPLOYEES AND UNIONS

Books

1. Anderson, Arvid, "The State and Labor Relations", Wisconsin Blue Book, (1956 ed.), pp. 136-141.

2. a. Annual Report
   b. Employment Relations Law and Rules
   c. Digest of Employment Relations Board and Court Decisions
   Employment Relations Board, State Office Building, Madison, Wisconsin.

3. Case, Harry, Personnel Policy In A Public Agency, Harper and Brothers, New York, 1957.

4. Godine , Martin, The Labor Problem In the Public Services, Harvard University Press, 1951.

5. Labor Management Relations In The Bonneville Power Administration, Senate Report 192, Senate Committee on Labor and Public Welfare, 82nd. Congress, 1st. Session, (1951), Washington, D. C., Government Printing Office.

6. Pfiffner, John M. and Presthus, Robert, Public Administration, (4th. ed.), The Ronald Press Company, New York, 1960, Chapter 18.

7. Rhyne, Charles, Labor Unions and Municipal Employee Law, National Institute of Municipal Law Officers, Washington, D. C., 1946.

8. Spero, Sterling, Government As Employer, New York, Remsen Press, 1948.

9. Staff Report, International Association of Chiefs of Police, Police Unions, (Rev. ed.), Washington, D. C., 1958.

10. White, Leonard D., Introduction To The Study of Public Administration, (4th. ed.), The Macmillian Company, New York, 1955, Chapter 27.

11. Wisconsin Blue Book, (1956 ed.), pp. 356-359.

12. Ziskind, David, One Thousand Strikes of Government Employees, Columbia University Press, New York, 1940.

Magazines

1. Cogan, Leo D., "Recent Transformation In Civil Service Whitleyism," Public Personal Review, January 1931, pp. 25-30.

2. "Collective Bargaining In The Public Service - U.S. and Canadian Experience," Public Personnel Review, April, 1958, pp. 160-164.

3. Cornell, H.W., "Civil Service Benchmark Court Decisions," Public Personnel Review, October, 1956, pp. 215-224.

4. Gendron, U.J., "Labor Management Cooperation In Government," Public Personnel Review, January, 1957, pp. 45-47.

5. Johnson, David B., "Some Problems of Cost-Plus Contracts," Public Administration Review, Autumn, 1959, pp. 219-227.

6. Johnson, Eldon, "General Unions In The Public Service," Journal of Politics, Vol. 2, p. 23.

7. Kaplan, H. E., " Concepts of Public Employee Relations," Industrial and Labor Relations Review, January, 1948, pp. 206-230.

8. Kaplan, H. E., "Legal Aspects of Public Employee Relations," Public Personnel Review, January, 1948, pp. 40-43.

9. Picton, Glynn, "Whitley Councils In The Health Service," Journal of Public Administration, Winter, 1957, pp. 359-371.

10. Plunkett, T. J., "Collective Bargaining and The Municipal Personnel Offices," Public Personnel Review, July, 1955, p. 139.

11. White, Leonard D., "Strikes In The Public Service," Public Personnel Review, January, 1949, pp. 3-10

June 1, 1960

Taunton

Sept, '60

Law of labor relations for municipal employment

Official line frequently: Can't legally have Col. Barg. — Col. Agreement — Arbitration in P.A.'s, etc

(Perhaps right if mean as in Pvt. ind, but "they" attempt to take further)

Don't understand what Col Barg is

Can't apply normal understand Col. Barg.

Statutorily protected: "Bargain in good faith"

Essential element: Right to strike

Permitted activity in our economy — (legislatively)

Similar activity not permitted in other areas —

Intentional damage of some one else —

Now a mannowing of specific protections

Secondary boycott —

Can't expect strike to be used as general weapon in public employment —

Reason is practical — you have power to paralyze services of community —

This is practical impediment to Col Barg as understood in pvt. ind.

What does Col Barg mean in pub. employment

Not much more than rt. to neg. in good faith

Demands, sit in conference, negotiate

Incredibly mess if current pub. practice applied to pvt. industry

Protestation to Entire Bd, Wah Union Committee, and then take it into stockholders.

Can't shift money from one element of budget to another in pub.

When say can't bargain? — You mean you can't sit down & talk —

Chap 509

You have right to organize
To be represented
Prohibit interference

Some people try to say:
if you have neg. then union must be present
But not required to negotiate

Mike
Takes position that negotiations are required

Legal position of union
will go to Court and file an unfair practices
if you beg statute guaranteed rt. of union, and if
he won't meet, then he is destroying union —

What elements must go back into law —

One party —
Provide facilities for enforcement of law
need Admin. Agency — use WERB
The law now is in Chap 111 (part of WERB law)
1) give enforcement powers to keep out of Courts
→ appeal, mediation
2) Give WERB intervention power
Try to get to negotiate
final step?
3) Require formal hearing, fact finding and recommendation
not prepared to do this at this point —
Should they have arbitration power —
might involve Const'l questions and litigation —

Lawton

Arbitration: objected to by some lawyers
can't delegate powers

"Ancient" law of Wis (Lawton uncovered recently)
Permits delegation to arbitrator in Building
Contracts — to determine quality of construction, etc.

How this
been tested?
Used?
Ct. look?

May change thinking on this score
Used to be Arbitration was advisory
& then confirmed by Council or Board —
would need legislation —
Union doesn't have status of person in ct.

May need a representation device — determine
who represents. (Didn't include originally to
avoid problems of units — should supervisors,
"officers" etc be in — what if other Unions have other
depts (teachers, water works, etc) —

(14) So little experience in labor relations, the municipalities
don't understand, don't know authority, resist any
relations — ignorance of labor unions & relations —
Can they use labor relations Counsels

Mike doesn't have a labor advisor

Exclusive bargaining can be engaged
for practical reasons
But can't get into ct. to throw out
Also applies to agreements — can't enforce in court
but can't throw out —

Waupaca County & UPW — ct. would not enforce
"not so learned an opinion, but probably right"

Heard Send in Express

Last 10 years

Ed –
50% increase per student cost
35% increase in # of students

[Support faster than tax base
even though other services do not –

People unintentionally create climate of opinion – what's said in barbershops"

Thorndike [were challenged – statistics can be used to]
If a city had a strong regard for human value, and had built

60% – character of people
25 – size of wealth
5 – effectiveness of govt

Essentially good govt depends on character of citizens –

What is the "answer"
if property is only tax

Puerto Rico

2 pieces of legis to aid org. (Passed by both houses, Gov. to sign (Wants AFSCME on Island))

if get 51% of municipality, can get check-off & union shop

Gov. wants aid in housing

AFSCME – can't move in without a base, must have membership

Gov. said welcome – a baba goat.

Convention was a mess

No dues increase (66⅔ support – takes 66⅔%)

65¢ tax – generally

$1.00 tax for new unions (

How does this square with equal treatment provisions of any law covering AFSCME –

Wanted to use IUD money

(condition: only where there is $1.00 tax)

Having on Calif. State Service

Md. State Service

110,000 State employees

New members from Baltimore (1500)

Elements of Strength

Check off

Merit

Referring Loads

Collective Bargaining

10 states bar strikes by law

Union only talking Col. Barg about 10 years –

There are several hundred Col. Barg agreements – Some, unilateral

New Eng. – Town meeting officers, telling Union "You'll have to put your name to it." Bad faith, won't be tested in Cts – What would happen if it were – Delegate Security.

Meany

Not central responsibility to organize
last Council meeting was deferred to push organizing
result; Analysis by ~~org~~ offices of Org. potential —

I.U.D. — differs on this
Should have concerted effort

BSEIU

Had competed — Mr Fitzsimons spent a great deal
of money to "take over" AFSCME

Not sure of position of new pres. —

P.S.I.
Public Service Int'l.
One of 17 "trade" internationals
"Congress" every 3 years
Zander is U.S. member of Ex. Com.

$28/1000 members
$5200 for AFSCME
Plus part, legislation costs,
to attend meetings
Emergency funds for
Int'l.

THE STATE OF WISCONSIN
Office of Attorney General
Madison
(December 30, 1960)

SYNOPSIS OF OPINIONS INVOLVING ANTI-SECRECY LAW

For some time now this office has been receiving requests for interpretation of Wisconsin's Anti-Secrecy Law. Many of such requests have come from private persons. While this office does not ordinarily advise such persons, I have answered many of these requests and explained my views in regard to the proper interpretation of this law because I believe so strongly that there should be no unnecessary secrecy in government. This problem is of such great importance that I have decided to summarize the views which I have expressed on this subject and issue a formal opinion which will be published with our other formal opinions so that it will be available to district attorneys, city attorneys, and attorneys for school boards and other public agencies, who may be called upon to advise public bodies regarding the necessity of conducting public business in open meetings which interested members of the public can freely attend.

The Wisconsin Anti-Secrecy Law is found in sec. 14.90, Wis. Stats. That statute reads as follows:

"14.90 Open meetings of governmental bodies. (1) In recognition of the fact that a representative government of the American type is dependent upon an informed electorate, it is declared to be the policy of the state that the public is entitled to the fullest and most complete information regarding the affairs of government as is compatible with the conduct of governmental affairs and the transaction of governmental business.

"(2) To implement and insure the public policy herein expressed, all meetings of all state and local governing and administrative bodies, boards, commissions, committees and agencies, including municipal and quasi-municipal corporations, unless otherwise expressly provided by law, shall be publicly held and open to all citizens at all times, except as hereinafter provided. No formal action of any kind shall be introduced, deliberated upon or adopted at any closed executive session or closed meeting of any such body.

"(3) Nothing herein contained shall prevent executive or closed sessions for purposes of:

"(a) Deliberating after judicial or quasi-judicial trial or hearing;

"(b) Considering employment, dismissal, promotion, demotion, compensation, licensing or discipline of any

public employe or person licensed by a state board or commission or the investigation of charges against such person, unless an open meeting is requested by the employe or person charged, investigated or otherwise under discussion;

"(c) Probation, parole, crime detection and prevention;

"(d) Deliberating or negotiating on the purchasing of public property, the investing of public funds, or conducting other public business which for competitive or bargaining reasons require closed sessions;

"(e) Financial, medical, social or personal histories and disciplinary data which may unduly damage reputations;

"(f) Conferences between any local government or committee thereof, or administrative body, and its attorney concerning the legal rights and duties of such agency with regard to matters within its jurisdiction."

By this statute the Legislature has declared that it is the public policy of this State that the public is entitled to the fullest and most complete information regarding the affairs of government as is compatible with the conduct of governmental affairs and the transaction of governmental business. The statute requires that all meetings of all state and local governing and administrative bodies, boards, commissions, committees and agencies, including municipal and quasi-municipal corporations, unless otherwise expressly provided by law, shall be publicly held and open to all citizens at all times, except as hereinafter provided. No formal action of any kind may be introduced deliberated upon, or adopted at any closed executive session or closed meeting of any such body. There are certain specific exceptions. Public agencies may hold closed meetings in the following situations:

1) The deliberation after hearing or trial by a judge, jury, or administrative agency;

2) Where personnel problems are discussed, unless a public hearing is requested by the employe concerned;

3) Certain areas of crime detection and prevention, and probation and parole matters;

4) Sessions where business matters which for competitive or bargaining purposes require closed session;

5) Deliberations or negotiations on purchasing of public property or investing public funds; and

6) Conferences or information passed between a public agency and its legal counsel.

All meetings of all public agencies must be conducted in public, except where the subject matter falls squarely and clearly within one of the above exceptions. Any doubt whether a matter falls within one of these exceptions should be resolved in favor of open, public meetings. Any public agency, finding it necessary to conduct any business in private, should first make a finding of fact, resolution or statement that matters to be discussed will fall within one or more of these exceptions, before going into executive session. Matters not falling within the exceptions should not be discussed or acted upon until the meeting has been opened to the public.

There is no statutory penalty for violation of the Anti-Secrecy Law. It is merely an admonition to public agencies that they shall conduct their meetings in public so that the public and the press may attend and be informed. In all probability, however, a person improperly denied access to a meeting which should be open to the public could apply to a court for a writ of mandamus to require the public agency to open its meetings to the public.

REGENTS AND FACULTY OF THE UNIVERSITY OF WISCONSIN

In applying the Anti-Secrecy Law we have given the opinion that the meetings of the Regents of the University of Wisconsin must be open to the public. We have also concluded that the debates of the University faculty on the subject of compulsory ROTC must be open to all and, since the statutes clearly constitute the faculties of the several colleges of the University as the governing bodies of these colleges, it is our opinion that all faculty meetings must be open.

In a recent opinion to the University Board of Regents we said that the exception relating to considering employment, dismissal, compensation of public employees, etc., applies only where a specific employe is being discussed or considered, relevant to one of the items set forth in sec. 14.90 (3) (b), Wis. Stats. This exception does not apply where personnel or management policies are discussed generally. The purpose of the exception is to protect a particular employe who is being considered or discussed and not to protect the public agency involved. We advised that if the Dean of the Medical School had resigned and the only question to be discussed was whether to retain him in employment, then the meeting could be closed to the public, after the board had made the necessary finding or declaration on the record to show that the subject matter would come within the exception. If, on the other hand, the resignation or continued employment of the Dean was merely incidental to the policy problems of the Medical School administration and recruiting, then the meeting should be open to the public. The mere fact that items of public policy or future personnel

relations are to be discussed is not a sufficient reason for a secret meeting. It is, in fact, a reason for holding an open meeting.

CITY COUNCIL

Likewise the Anti-Secrecy Law requires the meetings of a city council to be open to the public. This requirement is also specifically made by sec. 62.11 (3) (c), Wis. Stats. It is also our opinion that so-called "informal" meetings of a city council must be open to the public, unless the subject matter thereof falls squarely within the language of one of the exceptions of the Anti-Secrecy Law. Likewise special meetings of a city council must be open to the public. Section 62.11 (2), Wis. Stats., requires that six hours' notice of special meetings be given. Any device to give this notice in such a way that the public and the press are not able to attend would be contrary to the public policy declared by the Legislature in the Anti-Secrecy Law. The City Council of the City of Sheboygan has solved this problem by adopting a rule that notices of a special meeting shall be served upon representatives of the press in the same manner as they are served upon council members. I believe this is a good practice in keeping with the purpose and intent of the Anti-Secrecy Law.

JOINT SEWERAGE DISTRICT

We have expressed the opinion that a joint sewerage district cannot hold secret meetings. Section 144.07 (4) (d), Wis. Stats., provides that the commissioners of a joint sewerage district shall proceed as a common council. As pointed out above, the meetings of a common council are required by sec. 62.11 (3) (c), Wis. Stats., to be open to the public. It follows that meetings of a joint sewerage district are likewise required to be open to the public. Also, the minutes of these meetings are open to public inspection as provided by sec. 18.01 (2), Wis. Stats.

COUNTY BUREAU OF PERSONNEL

We have also considered the following problem: A County Bureau of Personnel had prepared a survey report on salaries and job qualifications. This report was to be discussed at a meeting of the personnel committee. Questions were asked whether such a meeting must be open to the public under sec. 14.90 Wis. Stats., and whether the report itself is a public record under sec. 18.01, Wis. Stats.

As to the first question, it is clear that there is no exception in the law which applies to compensation of public employes. The exception which is most closely related to

compensation is the one that appears at sec. 14.90 (3) (b), Wis. Stats.:

> "(b) Considering employment, dismissal, promotion, demotion, compensation, licensing or discipline of any public employe or person licensed by a state board or commission or the investigation of charges against such person, unless an open meeting is requested by the employe or person charged, investigated or otherwise under discussion;"

It is the opinion of this office that the purpose of this section is to protect individual public employes so that reports as to conduct, compensation of an individual, charges against him, etc., can be discussed privately in order that there may be no damage to reputation which could result if unsupported assertions were made in a public meeting.

Our belief that this is the intent of the exception is further fortified by the additional proviso that an open meeting may be requested by the employe or person charged, investigated, or otherwise under discussion. In short, it is our opinion that this exception is a shield, not a sword, and that its purpose is to protect an individual employe and is not to be used for the concealment of information or to prevent employes as a group from knowing what personnel or compensation policies are being considered by the county board of supervisors or its committees.

Under certain circumstances I believe that a municipal board could close the meeting if it were to make a finding of fact that its actions in a closed meeting come squarely within the exception. For example, subsec. (3) (d) of sec. 14.90, Stats., provides that a closed meeting may be held when "conducting other public business which for competitive or bargaining reasons require closed sessions;". In the event the board of supervisors was conducting labor relations negotiations and a report had been submitted to it regarding wage adjustments or inequities and the board wish to give its private consideration to the report prior to a public discussion or bargaining session, it is my opinion that the exception would apply. In any event, we have advised other state and municipal boards that prior to going into a closed session they should in a public meeting make a finding of fact that the matter to be discussed is one that comes within the exception and state the facts that would qualify a closed meeting.

For example, we have given an opinion to the faculty committee of the University of Wisconsin that the meeting held to consider whether intercollegiate boxing was to be abolished must be an open meeting. The faculty committee members informed us that part of the matter to be discussed was the medical history and records of the University boxer who died following an intercollegiate boxing match. The committee was advised that a closed session could be held for the purpose of this discussion

but that prior to closing that portion of the meeting it should go on record stating that the medical history of the person involved would be discussed in the closed session.

We also concluded that the survey report prepared by the County Personnel Bureau was a public record under sec. 18.01 (1) and (2), Wis. Stats.

SCHOOL BOARDS AND COMMITTEES

We have also advised that all meetings of a school board and the meetings of its committees must be open to the public, even where preliminary matters are being discussed. Similarly we have said that a meeting to discuss generally the salaries for teachers should be open to the public. The provisions of sec. 14.90 (3) (b), Wis. Stats., which provide that there may be closed executive sessions, refer to individual cases and do not give the right to a public body to close the meeting where salary schedules in general are being discussed.

Very truly yours,

/s/ John W. Reynolds

JOHN W. REYNOLDS
Attorney General

JWR:NSH:AH/jdl/mak

CAPTION:

Under sec. 14.90, Wis. Stats., all meetings of all public agencies must be conducted in public, except where the subject matter falls squarely and clearly within one of the statutory exceptions. Any doubt whether a matter falls within one of these exceptions should be resolved in favor of open, public meetings. Any public agency, finding it necessary to conduct any business in private, should first make a finding of fact, resolution or statement that matters to be discussed will fall within one or more of these exceptions, before going into executive session. No matters, not falling within the exception, should be discussed or acted upon until the meeting has been opened to the public.

Statement of the Board of Ed - Janesville
— Seitz decision

March 5, 1965

The Board of Education is presently required to make a decision -- one which obviously involves differences of opinion and one which not now and possibly never will be defined by clear-cut criteria. As Board members, we become accustomed to pressures applied from all directions. We try our very best to consider impartially the merits of each problem or request, realizing that in the end we alone must carry the responsibility for our decision. According to law, only the Board of Education may make the decision that faces us now.

It has been indicated at one time or another that the differences in contract terms are not really significant and therefore there must be some principle other than the dollars involved in the present deliberations or the matter would have been resolved long ago.

It is possible that the teaching profession strongly feels that as public servants they are at a disadvantage and are generally underpaid by comparison to other professions. Recent activities among educators throughout the country indicate that this thinking is rather universal, and basically Dean Seitz alluded to this same strong belief.

The Janesville Board of Education cannot in all fairness to its electorate use only this premise in establishing its salary schedule. The economic law of supply and demand, and it appears now, unfortunately, the counteracting pressures of organized bargaining units and the taxpaying public, will ultimately provide the yardstick by which Boards of Education will determine teachers' salary schedules.

The Board must make its decision wisely if it wishes to continue to attract and keep high caliber teachers to implement our high quality program. This is still our number one objective. By the same token, we must have complete justification for any actions we do take in order to prevent an over-reaction from any group that may disagree with our decision.

This was only a supporting consideration by the fact finder

"Ability to pay" should not be a factor in the decision. The Board's responsibility is to furnish an educational program to meet the needs in the community and the Board has and will continue to stand ground and fight for this objective when faced with financial difficulties. Adherence to this policy has made the Board both responsible and effective -- should this policy be abandoned then the primary objective of the Board is forfeit.

The law of supply and demand as well as the fact-finding report then brings us back to a comparison of our salary schedule with those of other cities with whom we compete for teachers. This year, as in the past, the Board has made a thorough analysis of the salary schedules of other schools. The salary schedule, however, is actually a base upon which to build. 161 of 380 classroom teachers in our system receive remuneration in addition to that indicated by the schedule. Most Boards, until recently, have deliberately kept the schedule as low as possible to avoid criticism from uninformed taxpayers, using incentives and some additional benefits to entice good people to stay with them.

Now that the issue has come to a head, we feel that we must look at the whole picture and that our salary schedule should be adjusted to reflect more realistically the entire structure of our salary situation.

In examining the salary schedules of 1965-66 for 17 systems other than Janesville, we find, for example, little consistency in the approach being taken on these fringe benefits:

1. One school this year has done away with a $400 dependency factor; another has done away with a $200 dependency factor. Eleven of the 18 systems have no dependency factor at all. This means that their schedule includes an

Post fact-finding unilateral determination on their own favorable arguments ignoring what the F-F finds

implied dependency factor. Our dependency allowance is in addition to our schedule.

2. One system has a dependency factor starting at $400 the first year and declining to nothing at the end of the schedule -- cancelling out the increment effect.

3. Sixteen of the 18 systems only pay a portion of the insurance (50%, the single rate, or a flat amount). This means their schedules include amounts sufficient to cover the family rate. Our allowance is in addition to our schedule.

4. The contract year in one system varies from our 38-week contract. I'm sure you would not want us to compare our 38-week contract year schedule with this system.

5. We cannot find any information indicating that competing school systems pay a stipend for attending summer school. Perhaps some do, but I'm sure many don't, so it is only fair to assume that those who do not include a stipend include an amount to take care of this requirement in their schedule. This item is separate and is in addition to our schedule.

6. The system with one of the best looking schedules this year has established a $400 maximum increase per year. Another system has a schedule that will not be reached for two years. Therefore, these schedules do not accurately reflect the current compensation of teachers.

7. We have also noted instances where systems have reserved the right to refuse advancement on the schedule to teachers not coming up to performance standards. It's inevitable that this will happen as increased pressures are brought to bear on the overall schedules.

We have concluded that there are no perfect salary schedules -- each has its strong points -- each has its "fine print". If money alone were the determining factor, there is no question but that the Milwaukee area schools are the place to teach. I suspect that many teachers in our system looked longingly at one of these schedules before deciding to come to Janesville.

Ignores the main thrust of JEA (increments)

We have felt that our offer prior to Fact-Finding would provide attractive increases for most everyone on the staff. Individual increases would range up to $480 or up to an 8.21% increase, with an average increase of $394 or a 6.35% average increase. We do not agree with the Fact-Finder's recommendation that increases should range up to $785 or up to a 9.51% increase with an average increase of $529 or an 8.36% average increase.

We are willing to start as soon as possible to negotiate all aspects of our schedule for the next budget year.

In order to negotiate effectively, both parties must be in a position and frame of mind to give as well as take. We are confident that this attitude will prevail both among representatives of the JEA and the Board.

Threats ?

As a matter of fact, it is timely that we mutually consider everything we are doing. Perhaps we should be on a 40-week year. We should review our "unequal pay for equal work" provisions such as dependency and insurance. Not only should we look at the matter of extra pay for co-curricular activities -- we should carefully examine the activities themselves to be sure we can justify their existence. Not only should we look at the stipend we pay for summer school work -- we should review our present requirements for professional advancement.

We should consider shortening our schedule so that the annual increments can be more comparable with other systems. We should review the feasibility of

of going back to a six-period day which we know would effect some economies in instructional costs.

We should consider the possibility of allowing those teachers who may have a personal financial problem to teach an extra hour each day and be paid accordingly.

All of these matters have an effect on our budget and on your salaries and working conditions. They are inter-related with the salary schedule and should be carefully considered in the process of making our schedule not only look more competitive but be more competitive.

In view of all these considerations, the Committee of the Whole has voted to recommend to the Board at its March 9 meeting that the Superintendent be instructed to issue contracts based upon a $200 increase in the base of the bachelor's degree schedule from $4900 to $5100, with increments of $190 for fourteen years as compared with present increments of $180; a $250 increase in the base of the master's degree schedule from $5250 to $5500, with increments of $200 for seventeen years as compared with present increments of $195.

Award

The Committee recommends that $5 per game be paid teachers assigned special duties at the four home senior high football games, and that other after 6:00 p.m. or Saturday assignments be made as equitably as possible by the administration without extra pay.

The Committee recommends that for non-degree teachers in the system the base schedule be increased $200, the increments increased from $155 to $165 and that increments for credits earned between the three-year training and bachelor's degree be increased from $30 to $40.

The Committee recommends also that the maximum increase per teacher of $600 be continued this year.

EV Public Employee Unionism

Labor Appointees vs. Public Unions: Traditional Roles Blur

To analyze labor's expanding role in government affairs, Milwaukee Journal reporters have interviewed scores of public officials and union leaders. Information was provided by reporters Lawrence C. Lohmann, Ralph D. Olive, Edward S. Kerstein, Avery Wittenberger, Patrick Graham and David F. Behrendt. Leon Hughes, who covers labor news, wrote the two part report, which concludes today.

When union leader John C. Zinos starts his annual bargaining for the city sewerage commission's employes this month, his opposite number on the management side will be Jacob F. Friedrick, president of the commission and of the Milwaukee County Labor council.

The negotiation session will illustrate how labor and management lines sometimes become blurred when public employes practice unionism and labor leaders become active in government.

Unionists have been appointed to many public commissions and committees in Milwaukee and the county. Some of the appointments give labor leaders important policy making powers. Some allow them to become civic figures. Others are little more than vanity appointments—designed to flatter the appointee and win support for the politician who picks him.

Little Likelihood of Compromise

In the sewerage commission negotiations, there is no suggestion that the interests of either the taxpayers or the employes will be compromised.

Friedrick is highly respected by many businessmen who have worked with him on public and civic enterprises. He is a long time member of the University of Wisconsin's board of regents and has twice served as its president.

Zinos, director of district council 48 of the State, County and Municipal Employes' union, can be expected to make at least his usual vigorous fight for the union members. This will be the first time that the union has formally negotiated with the commission as the certified bargaining agent.

"We are not going to be as easy on Jake as we were on the city," Zinos said. He chuckled, but he was not exactly joking.

His mention of the city was a reference to the district council's recent contract negotiation with the common council's finance committee. The final negotiation lasted 40 hours and ended with agreement on the city's first written labor contract in history.

Others Represent Management

While he may not be easy on Friedrick, Zinos may find his own job a bit harder because his adversary—a 50 year veteran of unionism—is so familiar with labor's bargaining tactics.

Friedrick is not the only union official who has to put on a management hat occasionally to negotiate with fellow members of AFL-CIO unions.

The vocational school board provides another good example. Its management bargaining team consists of two unionists—President Otto A. Jirikowic, a veteran unionist and retired staff member of the Milwaukee County Labor council, and Ralph E. Bowes, business manager of the carpenters' union district council—and an industrialist, Richard S. Falk, secretary of the Falk Corp.

Because the bargaining team (personnel committee) conducts its business in secret, there is no way of determining how much labor influence is exerted or whether it has a serious bearing on the policies of the board.

Falk, the committee chairman, takes the position that it is no one's business how the committee decides what it will recommend to the full board—so long as the recommendations themselves are made public at a board meeting.

The board has five members, so the personnel committee's recommendations, if unanimous, will naturally prevail. The other board members—Atty. Harold W. Story and Harold S. Vincent, superintendent of Milwaukee public schools—say they cannot effectively oppose the proposals unless they attend all meetings of the committee, in which they have no vote.

In many areas, there is no reason for conflict between the board's two employe and two employer representatives. Both sides have a big stake in vocational education. Their interests in apprenticeship programs probably are about the same.

Joined Forces With State

A year ago, when President Johnson's committee on equal employment opportunity tried to expand its jurisdiction over apprenticeship programs, Wisconsin industry and labor lined up solidly behind the state industrial commission to oppose it.

The government ended up modifying its position enough to satisfy Mathias F. Schimenz, then chairman of the industrial commission and now city building inspector.

Former Mayor Frank Zeidler says that Schimenz's fight for the status quo on apprenticeships strengthened him with the building trade unions, which are sensitive to criticism from civil rights groups.

Zeidler said that was one reason the building trades fought so hard to get the Milwaukee common council to confirm Schimenz's appointment as building inspector.

Jankowski *Jendusa*

An official of the trade unions gave a very different version. He said Schimenz had lost considerable rank and file labor support by pushing a series of hearings on job discrimination against Negroes. He said he felt that Schimenz was fair in the hearings, but that many union members thought he was too vigorous in pursuit of Negro interests.

"Mayor Maier was responsible for the labor pressure on the Schimenz appointment," the union official said.

"He asked union people to support Matt, and we got help from all who could put pressure on aldermen," he added.

Friedrick, perhaps the mayor's strongest ally in the labor community, led the union forces when they moved on city hall.

Labor Candidate Balked

Harold J. Jankowski, a labor endorsed alderman who refused to be swayed in his opposition, complained that the union leaders were "applying the screws."

Ald. Robert J. Jendusa, on the other hand, switched and backed Schimenz in spite of the fact that labor had refused to endorse Jendusa in his last campaign.

A high union official said Jendusa's change was not an effort to help labor, "for he hadn't forgotten that COPE didn't endorse him."

The unionist said COPE—the labor council's Committee on Political Education—refused to back Jendusa after he "blew up and gave the wrong answers on Negroes and housing" while he was being interviewed by COPE leaders.

"Jendusa didn't want public housing in his ward," the union leader said.

A top city official who asked not to be identified said the mayor had appointed too many "labor goons" to public commissions and committees.

Bowes *Jirikowic*

Maier vigorously defended his appointments. He said he had picked "labor, business, civic and intellectual leaders willing to work shoulder to shoulder for the good of everyone."

"I have appointed more people from the ranks of labor than any other mayor," he added. "There was not a sufficient balance on the boards and commissions, not adequate representation from the ranks of labor."

He said Milwaukee had "a civic minded labor organization, a reservoir of talent for our city government."

"I have been more than pleased with the type of representation I have gotten," he added.

He said labor had given important support to the community renewal program, the social development commission and the division of economic development.

Maier said he had tried to put at least one labor leader on each board. He denied that he had favored building tradesmen over industrial union people, a charge made occasionally by officials of the former CIO unions.

The Schimenz case was a rare example of overt labor pressure.

On the city's public school board, labor has representatives, but they do not act as a faction. Observers believe that the most prolabor members are Thomas Brennan, Cornelius L. Golightly, Milan Potter and Frederick Mett. Slightly less friendly to labor are Mrs. Elisabeth Holmes, Dr. Edward H. Krause and John Pederson.

Some Hard to Classify

Story considers himself friendly toward labor and probably is in many ways—but not always by labor's own standards.

Walter B. Gerken, who will replace Pederson on the board in July unless a recount now in progress upsets his election, was endorsed by COPE. He is an insurance executive.

The other members are either indifferent toward labor or difficult to classify. On the school board, as elsewhere in the community, labor is not a bloc on matters involving Negro rights. Golightly, Pederson and Mrs. Holmes have backed efforts to break up de facto school segregation.

Potter and Brennan, although liberal in general, have sided with the opposition on that point.

Labor's presence is also evident in the courthouse, although perhaps not as much as in city hall.

Neither County Executive John L. Doyne nor Eugene H. Grobschmidt, county board chairman, is considered especially close to labor, but they are not regarded as unfriendly to the union movement.

Doyne Got Campaign Help

A fund raising event in Doyne's last campaign was headed by Walter J. Burke, district director of the steelworkers' union, who apparently has been elected secretary-treasurer of the United Steelworkers of America, although the election results have not been made official.

Grobschmidt on several occasions has ended up making last minute concessions to employe groups, ignoring recommendations of the county board's personnel committee.

Doyne is so committed to holding the line on tax rates that he is commonly identified with the conservatives in county government when it comes to salary increases and other employe benefits.

He has, however, given labor recognition in the form of appointments to boards and commissions.

The county board has become increasingly aware of unions, especially with the advent of collective bargaining by public employe unions.

No Trouble With Trades

Old timers at the courthouse had no trouble getting along with such unionists as Friedrick and Peter T. Schoemann, national president of the plumbers' union, who formerly headed the Milwaukee Building and Construction Trades council.

The building trades do not have to negotiate with governmental bodies to get their pay increases. Government automatically pays tradesmen the rates they gain in their negotiations with private industry, so there is no impediment to an easy relationship between those unions and government officials.

Schoemann is typical of a sizable group of Milwaukee labor officials who have got along well with their counterparts in industry and have become civic leaders in their own right.

Friedrick and Burke are also of this school, as are Gerald J. Enright, a member of the county civil service commission; Edgar J. (Rex) Fransway, a member of the park commission, and the late Anthony J. King, who served on the museum board and many other public and civic groups.

Conservative by Comparison

John Zancanaro, Schoemann's successor as head of the building trades council, fits into the same category in most respects.

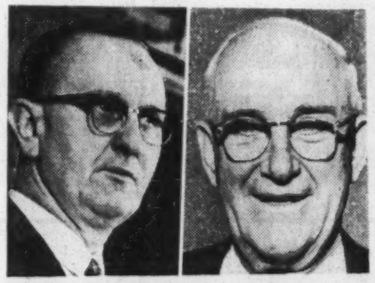
Such unionists are relatively conservative on most social issues, in sharp contrast to the Socialist reformers who came out of the labor movement here half a century ago. They represent highly paid workers who have taken on the trappings and some of the ideas of the middle class.

The public employe unions, on the other hand, are comparatively new, and they show some of the militance and vigor that the other unions had in their youth.

An incident at the courthouse Tuesday afternoon illustrated how the State, County and Municipal Employes' union can command attention from the county board.

The board had been asked to fill a vacancy for a custodial worker, grade III, but the civil service commission suggested that the job be lowered one pay grade.

The motion was given routine approval, but then Supervisor William F. O'Donnell jumped to his feet and asked that the matter be sent back to committee for reconsideration. The board voted to do so, without any questions or debate.



Burke *Schoemann*

Harold Schmidt, a staff representative of the union who had been sitting in on the session, got up, put on his coat and walked out, a broad smile on his face.

O'Donnell is labor's best friend and chief spokesman on the county board. The following other board members are the most consistent in giving sympathetic treatment to county employe demands: Donald F. Weber, Joseph A. Greco, Lawrence W. Timmerman, Isaac N. Coggs, James G. Lippert, Earl F. Keegan, jr., Edward W. Lane, John W. Duffey, Ervin J. Ryczek, Marty Larsen, Thomas J. Duffey and Michael J. Barron.

Unionists on Boards, Commissions

Labor representatives on important public boards and commissions (no salary unless indicated):

Fire and Police—Theodore R. Kurtz, chairman; Richard Block, Peter Pavlovich. Salary $1,320 a year.

City Sewerage Commission—Jacob F. Friedrick, president; Donald La Prest. Salary $600 a year.

Metropolitan Sewerage Commission—Friedrick.

Harbor Commission—George A. Haberman.

Vocational School Board—Otto A. Jirikowic, president; Ralph E. Bowes.

Board of Standards and Appeals—Bowes, president.

Common Council's Special Committee on Organization and Methods—Clifford L. Matchey.

Election Commission—Marion L. Heaney. Salary $1,650.

Board of Assessment—Mathew Pinter. Salary $1,650.

Board of Appeals—Clayton R. Culver. Salary $1,320.

Building Code Committee—Roy Cassel.

City Plan Commission—Fred A. Erchul, Gilbert Jewell. Salary $660.

City Service Commission—Julius L. Drozewski, president; Robert E. Jordan. President's salary $1,650; members' $1,320.

Community Relations Commission—Friedrick, Jirikowic.

Housing Authority—Guy W. Boldt.

Library Board—Joseph J. Wysocki.

Parking Commission—William J. Dewsenberry.

Museum Board—Herbert N. Peterson.

Citizens' Planning and Urban Renewal Committee—Erchul, Jewell, Harry W. Green, sr.

Redevelopment Authority—Green.

County Civil Service Commission—Gerald J. Enright. Salary $1,500.

County Citizenship Commission—Fred Lindner.

Expressway Commisison—Bertram McNamara.

Park Commission—Edgar J. (Rex) Fransway.

Welfare Board—John A. Heidenreich. Salary $1,500.

War Memorial Board of Trustees—Werner J. Schaefer.

County Work and Training Advisory Board—John Zancanaro.

THE MIRACLE OF PUBLIC SERVICE

YOUR PUBLIC

Who Ar

Your public employee is the man or woman who lives down the street from you. They can be seen cutting grass, raking leaves or at the grocery. One may coach the local Little League baseball team. Another may be a den mother for the local Cub Scout pack. Their sons and daughters may be attending confirmation class with yours.

At work they will be found guarding the corner cross-walks so your children may get to school safely. Through rain or snow they direct traffic or make sure your property is safe and secure.

Your public employees maintain correctional institutions to rehabilitate those who have gone astray of society. Your public employees devote themselves to aiding and administering to the ill, the needy and the unfortunate in a variety of state, county and municipal institutions.

★ ★ ★

YOUR PUBLIC EMPLOYEES guard your health, though you can't see them. They make sure the water you drink has no harmful bacteria in it. Epidemic diseases are carefully controlled by the sanitation services they provide. Sanitation workers, inspectors, and laboratory technicians are on duty around the clock.

They can be seen repairing highways from spring until fall and in winter they wage a constant battle to keep the roads open.

Our medical centers and mental hospitals are maintained by doctors, nurses, and technicians devoted to public service.

City and county engineers often work overtime to iron out "bugs" that pop up in new public developments.

C EMPLOYEES

e They?

SOCIAL AND WELFARE workers in your community help mend broken homes and provide for those unable to provide for themselves.

Your public employees, as office workers in city, county, and state offices, keep the machinery of government running smoothly so that each citizen may be ably represented and served.

The librarian in the public library who helps you select a book from one of her well organized shelves represents another facet of public service. Your museums and zoos are maintained around the clock by public employees.

Lastly, your public employees maintain parks and recreational facilities for you and your family to enjoy. These men — from conservation officers to park maintenance workers — provide the services to relax your mind and body.

★ ★ ★

YOUR PUBLIC EMPLOYEES are devoted to their jobs of giving you service. Many men and women have made your welfare their life's work.

In private industry these same people undoubtedly would draw a larger paycheck and would receive more benefits than those afforded them by state, county, and municipal authorities.

Dollar for dollar, you get more service from that part of your tax dollar which goes for public employees than for any commodity or service on the open market.

These people are pledged to efficient governmental services. Their unions deserve your support. Their economic needs need your understanding.

MILWAUKEE COUNTY DISTRICT COUNCIL 48
OF THE
AMERICAN FEDERATION OF STATE, COUNTY & MUNICIPAL EMPLOYEES AFL-CIO

JOHN C. ZINOS
Executive Director

E. JOHN MURPHY
President

ROBERT SADOWSKI
Secretary

KENNETH MANDT
Vice President

DORIS MOULTON
Treasurer

City of Milwaukee Locals

No. 33 PUBLIC WORKS DEPT.
No. 40 TAX ASSESSORS
No. 47 FOREMEN, INSPECTORS & SUPERVISORS
No. 381 BUILDING INSPECTORS
No. 426 LIBRARY & MUSEUM
No. 428 CLERICAL
No. 550 WATER DEPT.
No. 952 PUMPING & FILTERATION PLANTS
No. 1091 HEALTH DEPT.
No. 1203 GARBAGE DEPT.
No. 1238 ENGINEERS & TECHNICIANS

County of Milwaukee Locals

No. 594 COURT HOUSE & WELFARE WORKERS
No. 645 PROBATION OFFICERS
No. 882 PARKS
No. 1055 INSTITUTIONS

Suburban Locals

No. 2 SHOREWOOD
No. 80 WEST ALLIS
No. 133 ST. FRANSIS
No. 305 WAUWATOSA
No. 609 GREENDALE
No. 742 CUDAHY
No. 883 SOUTH MILWAUKEE
No. 1086 WHITEFISH BAY
No. 1261 GLENDALE
No. 1303 GREENFIELD

Metropolitan Locals

No. 366 SEWERAGE COMM.
No. 587 VOCATIONAL SCHOOLS
No. 1312 HOUSING AUTHORITY
No. 1718 CEMETERIES
" ? Public School
" ? Private Hospital

THE UNION FOR PUBLIC EMPLOYEES

1012 N. 3rd St. Milwaukee 3, Wis. BR. 2-1565

AMENDMENTS

Constitution
of the
Milwaukee County District Council #48

Article II
Affiliations

This Council shall be affiliated with the American Federation of State, County and Municipal Employes, The Wisconsin State AFL-CIO, and the Milwaukee County Labor Council.

Article IV
Membership

Section 3: Per capita tax shall be paid to this council by member locals at the rate of not less than One Dollar ($1.00) per month per member. Changes in Per Capita Tax must be ratified by 2/3 of the affiliated Locals.

Article V
Meetings

Section 3: All sovereign power and authority of the organization shall originate in meetings of the council. Delegates to these meetings shall determine matters of policy, and may delegate such authority as they may determine to the Executive Board.

Article VI
Officers and Committees

Section 1: The officers of this council shall be a president, a vice-president, a secretary, a treasurer, and 13 (thirteen) additional members, and these 17 (seventeen) together shall constitute the executive board of the Council. Not more than two members of the executive shall be selected from any one local union in any one year. The officers shall be elected and installed at the annual meeting of the council for a full term with all rights except as provided in Section 2 of this Article.

Section 2: Nominations for officers shall be made from the floor. Only duly accredited delegates hall be eligible for nomination. In the absence of the nominee, written evidence of his acceptance must be presented at time of nominations.

Section 10: out Completely ---- Section 11----changed to section 10.
Section 10: The Executive Board shall employ an executive officer with the title of executive director.

FIRE FIGHTERS' INSTITUTE

WHY A WRITTEN AGREEMENT?

From the statement of Professor Nathan P. Feinsinger as Chairman of the "Milwaukee Fact Finding Panel".

Written Contract - Except for those matters which are required by law to be dealt with by Ordinance or Resolution*, the Panel recommends that all terms or conditions of employment finally agreed upon by the parties be incorporated into a written signed contract.

Recommendation

On the question of a written contract, it has recently been stated:

> "The applicable state statute provides that if a settlement is reached, on the completion of collective bargaining negotiations, 'The employer shall reduce the same to writing either in the form of an ordinance, resolution or agreement. Such agreement may include a term for which it shall remain in effect not to exceed one year. Such agreements shall be binding on the parties only if express language to that effect is contained therein'.
> Sec. 111.70 (4) (i), stats. (emphasis added by Panel)
>
> "Incorporation of the terms agreed upon between employer and union in a written and signed contract is practically universal, and is required by law when demanded, in unionized private employment.
>
> "Embodiment of the agreed terms with respect to wages, hours, fringe benefits and other conditions of employment in a single written and signed contract, copies of which may readily be printed and distributed to all concerned, is businesslike and has advantages in the way of convenience of reference, and it tends to give to the employees a feeling of assurance that they are recognized as equal parties to the bargain and can rely on wholehearted adherence to its terms."

The above language is quoted from the Report of E. L. Wingert, Fact Finder, In the Matter of the Petition of Shawano County Highway Employees Union, Local 1520, AFSCME, AFL-CIO, Case II, No. 9061, FF-12, dated October 1, 1963, at pages 15-16. See also H. J. Heinz Co. v. National Labor Relations Board, 311 U.S. 514, 61 Sup. Ct. 320, 85 L. Ed. 303 (1941) stating:

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* Those matters required by law to be dealt with by Ordinance or Resolution may be incorporated into the contract by reference or summary and reference.

"in support of this contention (of the Board, that a refusal to sign a contract embodying the terms agreed upon is a refusal to bargain) it (the Board) points to the history of the collective bargaining process showing that its object has long been an agreement between employer and employee as to wages, hours and working conditions evidence by a signed contract or statement in writing, which serves both as recognition of the union with which the agreement is reached and as a permanent memorial of its terms. This experience has shown that refusal to sign a written contract has been a not infrequent means of frustrating the bargaining process through the refusal to recognize the labor organization as a party to it and the refusal to provide an authentic record of its terms which could be exhibited to employees, as evidence of the good faith of the employer. Such refusals have proved fruitful sources of dissatisfaction and disagreement. Contrasted with the unilateral statement by the employer of his labor policy, the signed agreement has been regarded as the effective instrument of stabilizing labor relations and preventing, through collective bargaining, strikes and industrial strife."

See also Section 8 (d) of the National Labor Relations Act, as amended in 1947 by the Taft-Hartley Act, defining collective bargaining as including "the execution of a written contract incorporating any agreement reached if requested by either party."

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GENERAL TYPES OF SENIORITY CLAUSES

1. PRIMARY ABILITY:

Example: "Promotional transfers shall be made on the basis of merit, ability to do the work, and seniority. The determining factors in making a promotional transfer shall be merit, capacity, and ability, except that, where the employees to be considered therefor have relatively equal qualifications in such respects, seniority shall be the determining factor."

Note: This type of clause puts seniority in a secondary position. Only if ability is relatively equal will seniority count.

2. EQUAL CONSIDERATION:

Example: "Promotions will be on the basis of seniority and job requirements."

Note: This type of clause is one in which the contract fails to state which factor is primary. It is often assumed that seniority and ability are given equal weight.

3. PRIMARY SENIORITY or SUFFICIENCY OF ABILITY:

Example: "When a job within a department is vacated or newly created, employees are assigned to jobs on the basis of department seniority providing they have the necessary qualifications and ability."

Note: This type of clause makes seniority the governing factor so long as the senior employee can do the job. In other words, the senior employee should always be selected unless he is <u>not</u> qualified.

Vocational School

	Bachelors Min.	Degree Max.	Masters min.	Degree max.
1957	4,000	6,250	4,250	6750
1965	5,540	9,440	5,840	9,740
% incr. unadj.	39%	51%	37%	44%
% change after COL adjust.	35%	46%	33%	40%

Milwaukee Public Schools

1957	4,000	6,100	4,100	6,400
1965	5,400	8,570	5,616	8,997
% incr. unadj.	38%	40.5%	37%	43.7%
% incr. after COL adjust.	34%	36%	33%	39%

Note;.....
The beginning bases are very low and therefore lead to apparently high% increases.

Past - not signed -

GRIEVANCE PROCEDURE: (Negotiated between MVTAS Board & MVTAS Teachers Union, Local 212)

I. It is agreed that a grievance is any matter which involves a violation or change of policy established by the Board, or a violation of a commitment or other legal responsibility of the Board. It is agreed that the following procedure will be followed for resolving these grievances:

Step I: The Bargaining Committee of the Union will meet with the Director and, if it involves finances, jointly with the Director and the Assistant Director, to discuss the problem.

Step 2: If it is impossible to reach agreement (Step 1), the Bargaining Committee will meet with the Personnel Committee of the Board. If agreement is reached, then the Personnel Committee of the Board refers the matter to the full Board for actipn.

Step 3: If agreement is not reached, then the Bargaining Committee meets with the full Board.

Step 4: If agreement cannot be reached between the Bargaining Committee and the full Board, then recourse may be made to other provisions of the law.

II. Complaints: A complaint is a personal dissatisfaction on the part of one or more employees for which they seek redress, but it does not imply or impute the violation of a previously established Board policy or any legal responsibility of the Board. The same procedure will be followed for complaints as i "I" above, except that the first step shall be for the employee or employee and union representative to meet with the faculty couselor of other supervisor of the teacher involved. Then, if agreement is not reached, it goes to the Director, and from then on it follows the procedure of "1" above.

****

(Negotiated between MVTAS Board & MVTAS Teachers Union Local 212 - June 1963-June, 1964)

1. Grievance procedure (see above)
2. Teacher reclassification pay adjustment ($50.00)
3. Open teacher files
4. Publication of promotional vacancies by the administration
5. Improved medical insurance coverage - $300 basic hospital costs paid after $50 deductable.
6. 15 day personal leave permitted annually
7. $200 across-the-board salary increase effective January 1, 1964
8. $300 added to the top of each salary classification, effective September, 1964

****

(Negotiated between MVTAS Board & MVTAS Teachers Union Local 212 - June 1964-June, 1965)

1. School Board policies catalogued and indexed.
2. Improved medical insurance coverage - maternity payments increased to $300.
3. Salary schedule restructured - $300 vertically & horizontally between all classifications.
4. $300 across-the-board salary increase effective January 1, 1965.
5. Adjustments of the maximum salary in each classification, effective September, 1965. This will result in an increase for those teachers at the top of their salary classification ranging from $50 to $200. (This resulted from the restructuring of the salary schedule, - # 3 above.)

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CHANGE IN HOURLY EARNINGS OF MANUFACTURING PRODUCTION WORKERS 1955 - 1964

Year	Money Wages (Mfg. Prod. Workers)	% Change in money wages	CPI 1955=100	Real Wages (Mfg. Prod. Workers)	% Change in Real Wages
1955	$1.86		100.00	1.860	
1956	1.95	4.832	101.51	1.921	3.272
1957	2.05	5.122	105.04	1.952	1.617
1958	2.11	2.921	107.93	1.955	0.157
1959	2.19	3.793	108.79	2.013	2.961
1960	2.26	3.191	110.50	2.045	1.590
1961	2.32	2.651	111.68	2.077	1.570
1962	2.39	3.012	112.97	2.116	1.872
1963	2.46	2.922	114.36	2.151	1.659
1964	2.54	3.255	115.86	2.192	1.901

Average % Change in money wages 3.5221%

Average % Change in Real Wages 1.844%

% Increase in money wages between 1955 & 1964 (2.54 divided by 1.86) 36.559%

% Increase in real wages between 1955 & 1964 (2.192 divided by 1.860) 17.842%

min. BA 4800 5546 = 39%

57 ↓ 65

max BA 6250 9410 = 51%

MA max 6750 9740

Milwaukee Salary

	B.S Min	B.S. Max	M.A. Min.	M.A. Max
1965	5400 125 2.4%	8570 395 4.8%	5616 241 4.5%	8997 522 6.2%
1964	5275 250 5%	8175 250 3.2%	5375 250 4.9%	8475 250 3%
1963	5025 125 2.6%	7925 125 1.6%	5125 125 2.5%	8225 125 1.5%
1962	4900 250 5.4%	7800 250 3.3%	5000 250 5.2%	8100 250 3.2%
1961	4650 100 2.2%	7550 450 6.3%	4750 200 4.4%	7850 450 6.1%
1960	4550 350 8.3%	7100 500 7.6%	4550 250 5.8%	7400 500 7.2%
1959	4200 0 0%	6600 0 0%	4300 0 0%	6900 0 0%
1958	4200 200 5%	6600 500 8.2%	4300 200 4.9%	6900 500 7.8%
1957	4000 400 11.1%	6100 200 3.4%	4100 400 10.8%	6400 200 3.2%
1956	3600	5900	3700	6200
1955	?			
1954	3527	5227	3627	5927

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THE PARTIES TO THE COLLECTIVE BARGAINING PROCESS

1. A common view:

Three parties: the union, management and the employees:

This view often reflects a lack of understanding on the part of the employees that they ARE the union. It may indicate an unwillingness on the part of management to accept the union as a regular part of the operation. It may reflect a desire to split the union leadership from the union membership. It is in line with the "labor boss" theory. This view is still very common among the managers of all government units.

2. A more realistic view:

Two parties: the union (which is the members and has no existence apart from them), and management.

Under Wisconsin law, the union can be certified or recognized as exclusive bargaining agent for all occupants of occupations noted in the certification order. However, Wisconsin law frequently makes a distinction between employees and the bargaining agent. (that is - the union).

RESPONSIBILITIES AND PROBLEMS OF UNION LEADERSHIP IN THE COLLECTIVE BARGAINING PROCESS

IN RELATION TO MANAGEMENT

A. Assembling facts for negotiations - a year-round process:

1. Resources:

   - settlements and patterns in labor-management relations generally
   - settlements and patterns in your craft
   - settlements and patterns in industries in your own community
   - what's been happening under your current contract or under your current practices

2. A suggestion:

   - involve as many other members and officers as possible in an examination of the existing contract or existing practices for possible changes; participation by the members in these decisions will tend to improve the quality of their support for the final proposals.

B. Preparing the actual proposals

1. The "language" approach:

   Working up clauses in exact contract language. This offers a solution without a statement of the problem. It is possible that devotion to language or an exact solution may hinder agreement. However, the language approach is common and often necessary; be alert to the problems which it presents.

2. The "problem" approach:

   Presenting the problem with a generalized suggestion for its solution - a clearcut invitation to management to acknowledge the problem and participate in a joint solution, with language secondary. This allows more freedom for bargaining with less initial bickering about language.

3. Support for proposals:

   Be ready to document requests for change; management is bound to ask the union why it wants a change (or a new proposal). Grievance procedure records are important in this respect - as well as notes on problems for which the contract or past practice offered no solution.

4. Estimating minimum requirements:

   Make a conscious effort to analyze what the minimum requirements are in relation to each proposal - what the union must have. This estimate of what is minimum may change as negotiations develop.

5. The broad, union-wide proposals:

   Be able to relate any such International Union programs to the local situation to lessen the affect of management's claim that this is strictly a national office adventure. This is also important in relation to the membership.

6. Membership action on proposals before they are submitted to the city:

   This involves the "principle of participation" and helps the members to appreciate their role in the collective bargaining process.

   A mimeographed summary of the proposals in the hands of the membership at the meeting will contribute to an orderly meeting and intelligent discussion and action.

II. Why are the problems and trends in Wisconsin state government and political life important -- significant?

--State government is more pervasive, touching our daily lives at an increasing number of points

--both as to services to individuals

--and in rules and regulations imposed upon us

--Governmental costs are increasing all along the line

--federal government taking biggest bite out of my tax $ (this didn't used to be so)

--state government fighting for financial resources

--local governments caught in squeeze

--Shifting population and economy of the state are likely to affect the state's role in the national economy and national political life.

--Duties and obligations of Wisconsin citizens are becoming more and more complex--this in turn requires a higher order to intelligence and attention in order to resolve conflicts

--The national government and national interests (largely security and defense)(due to the impact of mass communications media and our social, economic and political institutions) OVERSHADOWS state and local governmental affairs

--If the citizen neglects sufficient and purposeful attention to state and local affairs, real danger to democratic institutions

PAGINATION INCORRECT

III. Trends affecting Wisconsin government and sources of information that may give us insights into the future.

Introduction:

--Shifting population

Between 1940-50 34 counties lost population (north & west)
37 counties gained

The 34 who lost were thinly populated
The 37 which gained were the more populous

Greatest growth in southeast sector--23 counties--
from line drawn Green Bay to Green County

This is where 95% of state growth occurred.
More than half of this growth
centered in Milwaukee, Waukesha,
Racine and Kenosha

--Migration out of the state in last five years 1950-55 has implications in terms of prosperity, taxation and government

Between 1950-55 269,000 more births than deaths.

BUT 130,000 more people moved out of the state than moved in.

Young people seeking economic opportunity.

Reduces number of productive people that we can tax

--Six out of every ten residents are urban; plus fact that many rural dwellers work in nearby villages or cities.

--Most rapid growth in suburbs, not central cities.

--In 1950 there were only 306,509 family and hired workers on Wisconsin farms (this includes operators, unpaid family and hired workers)-- only 8.5% of total state population. And only 20% approximately of our state's population is engaged in agriculture and allied processing industries.

--Shifting population in sense of proportions in various age brackets. Portions of population under 18 and over 64 are increasing rapidly--the oldsters increase 10% in the last five years. While taxpaying portions grows only slightly (between 18 and 65) Puts more tax burden per capita on this group to school the young and care for old. It will be 10 to 15 years hence before our babies will help share this burden.

Introduction (contd)

--Next major area of shift is in the economy -- from agricultural to industrial.

Major industries--(1) Machinery (2) food products (3) paper and paper products

Rural real and personal property values in 1950 represented only 1/3 of the total in the state, compared to business and residential holdings in urban areas --according to State Dept. of Taxation figures. If manufacturing continues at high level employment, the proportion of real and personal property values born by rural areas will decline

1. Wisconsin state government is big.

Today Wisconsin state government has 1,142 functions.
Here is a sampling--
The Legislature enacts the laws of the state--sizeable vol.

Secretary of State keeps record of official acts of the the legislature and executive departments

Attorney General --besides representing the state in court actions, investigates and prosecutes violations of the anti-trust laws, review assessments of property on complaint, gives legal service to 7 state departments

Department of Taxation supervises and advises on local assessment procedures, administers the income tax and so on

Department of Budgets and Accounts maintains separate accounts of the revenues and funds of the state and of all moneys and funds received or held by the state, and all encumbrances, expenditures, disbursements and investments

Motor Vehicle Department enforces compliance of out-of-state motorists with Wisconsin's traffic regulations under reciprocal agreements

Conservation Commission provides for the rescue of lost persons in forests and parks or persons in danger of loss of life; assign equipment and employees to cases of emergency or disaster

Crime Laboratory collaborates with law enforcement officers in the investigation of criminal conduct and equip mobile units for field investigation

Industrial Commission annually inspects boilers, refrigerating plants, elevators, power dumb waiters and moving stairs

Introduction (contd)

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Aeronautics Commission cooperates with the federal government in air marking system and weather information, and approves construction of airport by county, city, village or town if using federal or state aid

Department of Agriculture collects and distributes information concerning the extent, condition, and prices of farm crops, animals, weather reports and other information of interest to farmers

State Board of Health--establish and maintain with federal grant-in-aid funds a program of cancer control, including methods to facilitate the early recognition of cases, case findings, dissemination of information on cancer to the lay public and the promotion of postgraduate medical education on cancer control. Same for heart disease. Oh, yes, and issue permits to operators of funeral establishments.

Industrial Commission enforces the labeling of mattresses and upholstery

State Board of Vocational and Adult Education visits handicapped persons making application for vocational rehabilitation to determine whether rehabilitation is feasible.

Governor's Educational Advisory Committee approves and supervises schools and educational courses for the training of veterans who are receiving aid from the federal govt.

Summary: These illustrations merely suggestive of broad scope of state activity--scope changes as social, economic, and political shifts take place.

To fulfill these functions an increasing number of state employees is required.

And, naturally this all requires more income and a larger volume of expenditures.

2. Wisconsin state government is more pervasive today.

One reason is that there are more people; and more people are living closer together; and more people are urban, requiring urban type services.

The state makes many more rules and regulations and is supposed to enforce them--actually if the state enforced all the rules and regulations on the books, you and I would be over-run with inspectors.

I have here what are called the departmental rules of the State Dept. of Agriculture. These are rules beyond what appear in the statutes. The rules cover everything from goats (10.06), to narcissus bulbs (21.10) to soda water beverages (41), to raisin buns (57.04), to canned dandelion greens (60.30)

Wisconsin government is pervasive to a larger degree today because we expect it to deal with crises -- crises of unemployment, crises such as floods, tornadoes, polio, education, traffic fatalities, crime, etc.

In a sense state government, as well as the federal government, are more pervasive today because they are operating in a period of cold war. We well know this because out of the 66 2/3 ¢ that the federal government takes out of each Wisconsin tax dollar -- the major portion of that 66 2/3 ¢ goes for security and defense. The bigger bite out that tax dollar that the federal government takes, the harder it is for state and local governments to squeeze more out for themselves.

3. Wisconsin state government is shifting constantly from negative to positive programs in government.

Shift from police idea of "you can't do this" to the idea that there are basic reasons why people don't abide by the law or the rules and regulations -- so state programs tend to put more and more emphasis on the positive, the preventive, approach.

Police officers are studying ways to prevent juvenile delinquency -- they are actually going to school to improve this aspect of their jobs.

Motor Vehicle Dept. emphasizes accident prevention not only thru the device of patrolling but in the engineering and construction of highways, driver education, etc.

Health Dept. emphasizes disease prevention

Ag. Dept. emphasizes better breeding of livestock, preventing soil erosion

Division of Economic Development, most recent example, to encourage industrial development (prevent industry from going to other states)

Administrative Division in Office of Governor (being considered at this adjourned session of the legis) is designed to prevent dispersion of the housekeeping activities within state departments.

4. The number of governments with which Wisconsin State government must deal is constantly shifting.

We have the federal, the state (one of each), then 71 counties, over 560 cities and villages, 1200 town governments, 4,000 school districts and more miscellaneous districts. Wisconsin has more than many other states.

These numbers are constantly changing as is evidenced by noting the number of new cities and villages being created and incorporating. Between January 1944 through January 1955 26 built-up places incorporated as villages, and 10 places incorporated as cities.

The point to note here is that this changes the tax bases on which local governments are operated. School district reorganization good illustration of this shifting and reshaping of tax bases.

5. In Wisconsin, as elsewhere, we are constantly shifting functions from one government to another, or sharing them in different ways.

There is no sign that state government is "withering away"--rather the shift in functions has tended toward centralization at the state level.

Example: Legislature said to the counties: "You continue your traffic patrols and we will increase the state's patrol." What will be the eventual resolution? Complete state patrol? This example, of course, highlights the taking over completely of a function. The next example is in regard to sharing of a function.

Example: Before 1930 the federal government had no role, and the states a very minor role, in the financing of the social security aids. These programs were largely financed by local governments. Wisconsin has today as little state control over the administration of the social security laws as is possible under present federal laws; whereas in about 28 states there is no local financial participation in the social security aids.

Perhaps it is in the Wisconsin tradition, something in our people and institutions, which causes us to examine each shift of function very thoroughly in an effort to keep government close to home. Yet the process of shifting and sharing functions is apparent in school district reorganization, in the field of health, and in highway construction and maintenance.

6. By now you will have caught on that this is a very complicated subject, with ramifications going off in 60-11 directions.

It is very difficult for me, or you, to give fair statements of the issues involved, points of conflict, pros and cons.

What we all need is reliable sources of information so that each of us can make up his own mind about specific governmental problems as they arise daily. We are dealing with problems which are essentially abstract. So it is wise to view sources if we are to know whether the problems are over-stated or under-stated, or whether we are presented with enough alternative solutions to know when we are making wise decisions.

Fortunately in Wisconsin we have so much information, so many good sources, that we have to pick and choose. And no one, whether he is professor, teacher, or lay citizen, has time to assimilate all choices.

(see attached page 9)

Shelf of publications

1. Blue book (how to get one. Reprints)

2. Ag and Extension, Town, County, State "Know Your Governments"

3. The 30th Star, reprint Wis. Blue Book -- history

4. Wis. Statutes (definitive) (Where to find copy)

5. Legislative reports, proceedings

6. State Departments--tremendous, beyond capacity of people to keep up with it. Illustration State Bd. of Health on vital statistics

7. County Board proceedings (not recommended reading, but gives certain kinds of information--financial, list of county officers)

8. Wis. State Budget (who wants to go through this? But if you want certain kinds of facts about budget, this is where to come to)(also county budget, U.S. budget as big as Chicago telephone directory)

9. Financial information, easier source for financial information. Wis. Taxpayer's Alliance. Clear, concise, main facts, major picture. Information pretty straight. (Do not confuse with other kinds of outfits, public expenditure-tax cutting types)

10. League of Women Voters "Most for your money" state finance picture

11. Dept. of Taxation, Dept. of State Audit--taxes collected

12. Wisconsin Counties magazine

13. The Municipality

14. U.S. Census reports

15. World Almanac

16. Newspapers--John Wyngard's column about state affairs, good reporting. Not all columnists are impartial.

17. Of special interest to teachers of social studies Joint Reference Library reference list, weekly. Subscribe $6.00 per year -- library

IV. Shape of things to come in highways, welfare, and education — for these are the major functional areas if you consider number of employees involved and dollars spent.

A. Highways

1. Tremendous increase in number of automobiles; automobiles are bigger, faster. Trucks are longer and heavier. Results: traffic congestion, increasing traffic accident fatalities, obsolescense.

   This is a state and local problem mainly, tho the federal government is expressing an increasing interest in this area.

2. Increase in mileage under state arterial highway system. The 1955 law specifies that 2,200 miles of the 11,000 miles of state trunk highways are to compose the arterial system on the theory that we need this much mileage in order to serve all areas of the state if we are to serve both interstate and interregional travelers. This 2,200 miles comprises less than 20% of the total state trunk mileage, but carries nearly 40% of the total traffic on the state trunk highway system.

   (Here is another illustration of how the state takes over a function partially -- for over these 2,200 arterial miles the State Highway Commission has exclusive jurisdiction for planning and development.)

   Parenthetically, another aspect of this functional area is the licensing of motor vehicle operators. The legislature adopted a state system of licensing to be administered by the State Motor Vehicle Department -- formerly administered by county.

3. What would it cost to improve Wisconsin highways to modern standards?

   "The highways advisory committee of the legislative council has collected some information about the prospective cost of improving Wisconsin highways. The total estimate of needs computed by the various governmental units in Wisconsin and submitted to the highway advisory committee totaled $2,300,000,000. This amount does not include any estimate for town road needs."

   Question: How do the estimated needs compare with the amounts of money now being spent for highway construction in Wis.?

   Answer: The estimates were made on the basis of

a construction program over the next 10 years. This would amount to spending $236,904,200 on an annual basis -- or more than double the present rate of spending for highway construction.

4. How are we going to pay for this--assuming the legislature wants a highway building program of this magnitude?

The 1955 session of the legislature increased the tax on motor fuel by 2¢ per gallon, bringing the tax to 6¢ per gallon. (Also driver's license fee raised from 50¢ to $1, renewable every 2 years instead of every 4 years.

But these highway user taxes account for 50.5¢ of the highway expenditure dollar.

Highway user	50.5¢
Property taxpayers	23.9¢
Federal aid	7.9¢
Local funds	8.2¢
Miscellaneous	9.5¢

Federal aid for highway construction was increased this year and will now approximate $20,000,000 annually. This is a drop in the bucket when we look at the $236,904,200 annual spending anticipated under the 10 year plan.

But the highway program is only <u>one</u> program with which the state government has to wrestle. Let's look at welfare.

A. Welfare

1. Tremendous increase in the number of individuals in need who require care: social security systems, old age and survivors insurance, widows and dependent children, totally and permanently disabled, and the blind.

Wisconsin has about 46,000 people on old age assistance, 29,000 in aid to dependent children, and another 3,000 - 4,000 in other categories -- a bill of some $50,000,000 a year. These are large numbers and sums under conditions when the state isn't even depressed. Further, this does not count those under local relief or those under various insurance programs.

How far do you think government should go in taking care of the poor and those in need????

2. Illustrate the shape of things to come in welfare by using our aging population. Though I could elaborate this shape by using care of the mentally ill, or some other aspect of welfare.

The aged population, in Wisconsin, as in other states, has followed the trend toward an increasing average age.

Wis. 1900 -- 1 in 20 was over 65
1940 -- 1 in 14
1953 -- 1 in 11
by 1970 -- 1 in 9 (estimated)

This spiralling of those over 65 has been accompanied by a corresponding increase in the size of the middle-aged group. By 1960, it is estimated that one-fourth of all the workers in the U.S. will be 50 years old or over. Wisconsin, as a state, has been consistently losing a sizeable fraction of its young people by migration to other more industrialized areas. Some prognosticators say that this state's working and producing population will be somewhat older than that of the nation as a whole.

The difficulties of the elderly are gradually creeping down the age levels until it seems inevitable that the middle-aged will soon inherit them. Their period of usefulness has already contracted to such an extent that only the stimulation of near-wartime production has enabled the middle-aged to hold their place in the labor force. In a normal peacetime economy their difficulties may approach those of today's elderly.

Add to this the fact medical science has made it possible for us to live longer -- only to be later the victims of the lingering, chronic illnesses which are so costly. Medical care costs have risen 300 percent in the last 6-8 years. This increased cost more than offsets any gains to be expected from a decrease in the number of old age assistance recipients. Moreover, Wisconsin, by reason of the fields of employment in which its population is engaged, does not benefit to the same degree as do other states. In certain industrial states, the number of Old Age and Survivors Insurance beneficiaries reaches about 400 per 1,000 aged (1951). In Wisconsin in 1951 the number was 239 per 1,000 aged, below the U.S. average of 247 per 1,000 aged.

3. What would it cost to meet the needs of our aged, to say nothing of other welfare needs?

It is so staggering to think of that no one, not even the experts, so-called, have dared to make a guess. In fact we don't know enough about the problems of the aging and aged to make an educated guess.

Some state study committees, after lengthy study, have said that it can never be possible to provide public facilities for all the aged who require institutionalization. Because no such program within the limits of practicality (and I mean the taxpayer's pocketbook) is possible, other ways of caring for the infirm and disabled aged will have to be found.

As we leave you, and state government to wrestle with this knotty welfare problem, let's move to the third major function we shall explore -- education.

C. <u>Education</u>

1. I will treat this lightly since you are all so close to it. You are all familiar with the school population statistics. Suffice it to say that babies are continuing to be born at a rate we had not thought likely. Nor do we know at what point in time this bulge of "young ones" is going to decline.

One important factor ought to be pointed out, however. That is that as this bulge moves through the grades it becomes more expensive to educate them -- until it reaches the colleges and universities -- then it will be really expensive. (This is the underlying explanation for the concern about integration of the institutions of higher learning.)

2. If I mention finance and taxes again -- how are we going to pay for all this? -- you will all rise in a body and go home.

The only bit of philosophy I have on this topic of how we are going to solve the problems of education is this: -- in fact serves as a summary comment on the Wisconsin situation in general --

> The state of Wisconsin has been regarded as a laboratory of governmental experimentation -- a great many national programs came from Wisconsin (income tax, unemployment insurance), but lately there has been a hardening of the arteries here. Unfortunately this spirit of experimentation has been traded for copying other state's solutions, rather than trying out new solutions.

V. Certainly these trends have meaning for you as individuals, as teachers, as leaders in the community's life and thought.

A bit of philosophy about this too, and my philosophy hinges on TIME.

Technological changes within a short space of time these days.

But it takes a long time for political institutions to adjust to technological changes. Our governments, marvelous as they are, have suffered from the successive impacts of constant technological change. These shock waves are getting more and more difficult to deal with. This requires us to run very fast indeed if government is to operate under these conditions.

Then there is the TIME that we all spend -- the 24 hours a day. My philosophy is that we as individuals do not budget our time. Besides, we hear all this talk about "the increasing amount of leisure time" we're all supposed to be enjoying. Why couldn't we budget "time" to give thought and consideration to experimenting with new solutions for tough problems?

VI. Changes in organization and structure of government to deal with all of these trends and problems.

A. Centralizing and integrating certain kinds of functions so that they may be done more economically.

1. For example: Joint Legislative Council set up in 1947 to conduct studies that were formerly conducted through numerous "interim committees". The Council makes studies for the legislature. Some 20 to 25 will be made by it before the 1957 legislature convenes. The studies made by the council give the legislators the basic facts about a problem and recommendations as to alternative solutions. Our legislature should be commended upon following the recommendations of the so-called experts.

However, state administrative organization or reorganization has nothing to do with economy or reducing taxes. You cannot, by reshuffling, save enough to show on the tax bill -- this can be done only by lopping off programs. This is not to say that administration and management are not useful; rather, administration can give best service with the dollars at your disposal. This means getting people's energies working toward the same goals, and reduce the frictions and irritations that impede progress.

B. The trend in organization is toward the strong executive with as few departments as possible. For example thru our state's chief executive the internal management (space assignment, fiscal control, etc.) has been put into management agencies. This means we have a higher degree of specialization which has permitted Wisconsin to get competent people. Moreover, to compete with industry, salaries for this kind of management personnel has been raised. As the size and complexity of state government increases, the problems of administration become more difficult -- consequently the need for better trained personnel becomes apparent.

VI. Finally, the state really has limited resources. This is not a rich state. It will continue to lack coal, iron and nickel. The state has not arrived where it has because of its resources -- rather because of the character and skill of its people.

Partially at least, the hope for meeting increasing state expenditures, is to maintain a high level of productivity. Partially it lies in the way we apportion our expenditures among education, highways, health, welfare and all our needs. In part it lies in negotiating with the federal government and with localities, for they supply the state with additional resources. When one considers that state aids and shared taxes paid to local units of government make up almost 2/3 of the total expenditures made by the state, it becomes evident that this is an area that needs investigation. The 1955 legislature has, in fact, recognized that the state and local units (as well as the federal government) are in this financial plight together. The legislature has directed the Legislative Council to make an intensive study which will include tax needs and revenue sources of the various local units of government.

Our United States Congress may come up with similar facts which may help not only our state, but the rest of them, to meet tremendously high costs of government.

The University of Wisconsin

UNIVERSITY EXTENSION DIVISION
432 NORTH LAKE STREET
MADISON, WISCONSIN 53706

SCHOOL FOR WORKERS

TO: Dick Rossmiller
Emory Via
Robert Owens
Arnie Allen

FROM: James Stern

Enclosed are two copies of the revised program, and a draft of a letter that would go out with it. Please make any additions, subtractions or corrections on one of the copies and return it to me.

This note also serves as a reminder of our planning meeting scheduled for 3:30 P.M. in the 8th floor conference room of the Extension Building on Monday, June 14.

cc: Howard Wakefield
John Hunger

THE UNIVERSITY OF WISCONSIN

UNIVERSITY EXTENSION DIVISION

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Thank you for sending us your registration form for the coming institute on collective bargaining in public employment.

Enclosed is a more detailed program with specific instructions for final registration.

We are looking forward to seeing you in Madison on June 28.

Sincerely yours,

Robert Osanne, Director
School for Workers

August Eckert
Professor of Law

Howard Wakefield
Professor of Education

John Hunger
Assistant Professor
Institute of Governmental Affairs

UW-M Local AFSCME

PROCEDURE FOR HANDLING EMPLOYEE PROBLEMS

Any employee in the classified service of the University who feels aggrieved or has a personnel problem, may present his problem to university authorities through the established grievance procedure and shall not be discriminated against on that account. The same procedure shall be followed by a group of employees presenting a joint grievance. Any employee, or group of employees, who are members of a union, may, if they desire, be represented by representatives of their union or representatives of any affiliated body. They may enter into the Proceedings under Step I, 1 and 2; Step II, 1, 2 and 3.

Step I

A. A personnel problem, or a charge of unfair treatment by an employee, shall not be considered a grievance until:

1. First, the matter complained of shall have been discussed by the employee with his supervisor. If they have been unable to reach a mutually satisfactory settlement within one working day after such discussion, and

2. Second, the matter complained of shall have been reviewed jointly by the employee concerned, the supervisor and the department head, and they have been unable to reach a mutually satisfactory settlement of the complaint within two working days after such discussion.

Step II

A. A personnel problem or a charge of unfair treatment which has not been settled under the procedure outlined in Step I, shall be submitted to the university authorities in writing as a grievance in the following manner:

1. First, a copy of the grievance, on forms prepared for such prupose by the university, and signed by the aggrieved employee, shall be sent to each of the following:

   The employee's supervisor
   The employee's department head
   The University Personnel Office

2. The aggrieved employee shall discuss the written grievance jointly with the employee's supervisor, department head, and the University Personnel Office.

3. Third, in the event a mutually satisfactory settlement cannot be reached within five days after such discussion, the grievance shall be promptly referred by the University Personnel Office to the University Vice President of Business and Finance, together with all papers, documents, and other information relating thereto, for settlement.

Step III

A. In the event a mutually satisfactory settlement cannot be reached within five working days after the discussion provided for in the third part of Step II, the aggrieved employee may file an appeal to the state bureau of personnel, or the personnel board, in accordance with the statutes relating to employees in the classified service and the civil service rules made pursuant thereto.

B. In order to protect the statutory appeal rights of the aggrieved employee, any employee grievance arising out of circumstances covered by section 16.24 of the statutes relating to removals, suspensions, discharges, reductions, dismissals and layoffs, which has been submitted to the university under this grievance procedure may be appealed to the personnel board by the aggrieved employee, at any time within 10 days following the effective date of the action of the employing officer.

C. In order to protect the appeal rights of an aggrieved employee, any employee grievance arising out of the reallocation of a position under Rule V, (2), Civil Service Law and Rules, Bureau of Personnel, which has been submitted to the university under this grievance Procedure, may be appealed to the personnel board at any time within 15 days from the date of notification of such reallocation.

Memo:
To: Emory Via
From: Steve Clark

Our union has a three level structure. Namely, the international, the local, and the council.

The Wisconsin State Employees Association is known as Council #24 and as the name implies is strictly for state union members. All locals are affiliated.

There are two other councils for county and municipal unions. These are Wisconsin County & Municipal Employees Council 40, and Milwaukee District Council 48. The latter has jurisdiction in the city and county of Milwaukee.

Legislative efforts on matters of common interest to all public employees such as retirement, collective bargaining laws, etc. are coordinated.

As you know the state employees of necessity must depend upon the legislature for salary increases, improved fringe benefits, and other items of interest to civil service employees. The local unions have the responsibility of handling the problems of members which arise involving normal on-the-job grievances which fall within civil service rules.

We do not yet have the right under state law to negotiate working agreements, but our attorneys are drafting legislation which will be introduced in the current session of the legislature which will give state employees this right somewhat along the lines of what is now provided for city and county unions.

State employees in the classified service have appeal rights under Chapter 16, WIS. Stats. in cases of suspensions, discharges, demotions, etc. In fact, these provisions were put in the law because of the union's efforts many years ago.

On the subject of grievance handling, if a local cannot settle a problem at the local level, and it must be brought to the attention of officials at higher levels, the council is called upon to assist after proper clearance from the local or its executive board.

A good example of how one grievance was followed all the way through by the local at Mendota State Hospital can be found in the March 1953 issue of the Wisconsin State Employee (see page 19). This involved the right of female employees to wear white uniforms. They finally won out in January of 1954 after a long drawn out period of processing the grievance.

The basic constitutional membership dues in our international are $2.00 per month. However most locals now have dues above the minimum. In our state service the international union receives 65¢ per member, per month; the council (WSEA) receives 90¢ per member, per month. Each local union pays the international $1.00 per month for international relations. Locals are affilitated with state and central labor bodies unless excused from such affiliation by the international president.

See 6, p. 26

E. Vid

WISCONSIN STATE EMPLOYEES ASSOCIATION

STEWARD'S MANUAL

"Your Job Future Is Our Business"

Affiliated With
The American Federation of State, County, and Municipal Employees
AFL-CIO

8

FOREWORD

The importance of the steward has increased greatly in recent years. In our union he is in a key position, and his work of great value to the welfare of his fellow workers and to the success of the union. He is an important link in the chain of command between the organized employees and management in day to day relationships.

A conscientious and well-informed steward is the union's greatest asset. Good personnel relations don't just happen; they must be cultivated and encouraged. This is the job of the steward. He is the personnel officer in his designated employing unit for the union. Care, good judgment and discretion must be exercised by each steward to do the best job possible for his members. Each steward has a trust, and he must guard it carefully and use it well.

This manual will set out some principles with reference to WSEA locals, but is not intended to be a complete and comprehensive guide. Stewards in each department and institution will need to supplement information contained in this booklet with material pertaining to their respective employing units. Remember! Intelligent, efficient and alert stewards are the cornerstones of all union activities. They are key men and women, and are spokesmen for the union and membership.

ORANIZATION DUTIES

Strengthening the organization is of primary concern to the steward; he is the membership salesman in his department. It is his duty to see that every employee in his unit joins the local. This is a very important job, for the larger the membership, the greater our bargaining power will be with the departments of state government and the legislature.

Know the Objectives and Accomplishments . . .

Officers and stewards should prepare themselves for their membership responsibilities by becoming acquainted with the accomplishments and objectives at all levels of the organization. (The local union, the Wisconsin State Employees Association, and the American Federation of State, County, and Municipal Employees AFL-CIO).

The union program for the future directly affects the welfare of every civil service worker. WSEA has long-range objectives designed to advance the social and economic welfare of all state employees. Specifically this program includes the following:

1. Salary increases to keep pace with economic trends.
2. Improved contributory hospital and surgical insurance.
3. Legislation to increase retirement benefits and strengthen the system.
4. Longevity pay.
5. Improved contributory life insurance.
6. Payment of time and one-half for overtime, computed on total salary.
7. Premium pay for night work.
8. Terminal pay for unused sick leave.

These and many other items are major objectives on the legislative agenda. These are organizational aims that should be stressed to potential members by stewards when efforts are being made to sign them up.

In addition, non-members should be reminded of these significant accomplishments by WSEA during the years of its existence:

- The 40-hour, 5 day work week.
- The retirement system and social security.
- 5½ million for salary increases in 1961; 15 million in 1963.
- Overtime compensation on full salary and inclusion of bonus in base pay in (1961).
- Life and health insurance with state sharing premium costs.
- Upgrading pay scales and reclassification of positions.
- Survivor's benefits under retirement system.
- Unlimited accumulation of sick leave with "bank".
- Improved vacation schedule including fourth week after twenty years.
- Overtime pay or compensatory time off.
- Hearings before the personnel board in disciplinary cases, and back pay for reinstated employees.
- Military leave protecting civil service status, salary increases, and retirement.

- 30 thousand dollars for formula pension study (1963).
- Holiday leave guaranteed (1961).
- Compensation for patient or inmate damages to employees' personal property (1959).
- Uniforms for MVD Inspectors in 1959 and for penal institution guards in 1961.
- Workmen's compensation, unemployment compensation, and special sick leave for hazardous occupations and penal and mental institution employees.

Ask People to Join . . .

Stewards should keep a constant check on the employees in their departments and keep soliciting those who have not joined the union. They should also enlist the assistance of the officers of the local in obtaining a list of the prospective members in their respective units. Card files should be maintained listing the non-members; these should periodically be passed around among the stewards and members so that more than one person is asking potential members to join.

Organizational material and pamphlets are necessary "tools" of the trade and can be used to advantage when contacting prospective members. Stewards should have an adequate supply of all available pamphlets which can be supplied to local unions by WSEA and the international union.

Introduce Yourself . . .

Officers and stewards should introduce themselves to new employees, get acquainted with them as soon as they start work, and inform them of working conditions and their rights under civil service. Most important, though, new employees should be told of the existence of the union and its accomplishments.

Recruiting new members is everyone's responsibility, and it is imperative that stewards enlist the aid of other members in this continuing process of building the union.

Annual WSEA Convention (1963).

Attend Meetings . . .

It is important that stewards attend meetings and

do all they can to encourage members to do likewise. Information about the progress of the local and the exchange of views as expressed in a meeting are bound to be of mutual benefit.

HOW TO SIGN UP A MEMBER

- All new members must go on payroll deduction.
- The initiation and/or reinstatement fee is $3.00.
- Minimum monthly dues are $2.00. (Some locals have a higher rate.)
- Take the payroll deduction cards in duplicate to the local treasurer with the initiation fee as soon as possible after the new member has applied for membership.
- Officers and stewards should know payroll cut-off dates in their departments or institutions.
- Be sure to get correct addresses.

COUNSELING DUTIES

The civil service law and rules are actually the legal working agreement for state employees. It is the union's responsibility to police them. The steward should be thoroughly familiar with these rules in order that he can serve the members effectively. WSEA can obtain copies of the rules for local unions which in turn are available to stewards.

Know the Working Conditions . . .

Stewards must know working conditions. They cannot effectively represent the members unless they

know fully and in detail, the regulations under which employees work. They should know the salary schedule, rules relating to hiring and discharge, and provisions of the retirement system. They should also be familiar with departmental and union grievance procedures, and see that rules are followed in processing of grievances.

Take a Personal Interest . . .

The union must be a friend and helper to every member. Their work problems are the union's problems; therefore the steward should take a personal interest in every member.

The steward who knows his department from top to bottom and is familiar with the work of the employees is more apt to have the confidence of both members and management in personnel matters. He should get both sides of the story before hasty action is taken on grievances.

Union Gives Legal Services . . .

It is important to note that a union provides its members with day-to-day individual job counseling and guidance. In special cases, attorneys who are specialists in civil service law are retained to assist in legal actions when necessary. This counseling goes with membership; and in addition members get personal representation before state boards and commissions, such as guidance in matters relating to:

- Pay scales
- Job classification

- Discharges or demotions
- Vacation and leaves without pay
- Layoffs or suspensions
- Sick leave
- Promotions
- Merit salary increases
- Workmen's compensation cases
- Retirement counseling

This representation is available to all members and is one of the important services provided by the WSEA.

When advice and counsel are needed, stewards should contact local union officers. In situations where further advice is needed, the officers will consult with representatives of WSEA.

AFFILIATIONS

Our union has a three level structure; namely, the local, the American Federation of State, County, and Municipal Employees, and the Wisconsin State Employees Association. The latter is actually a service council of state employee unions and is the organization which is responsible for legislative work and representation before state boards and commissions.

Many locals are affiliated with the Wisconsin State AFL-CIO, and with central labor unions in their

respective localities. These are of value in several ways and locals should be affiliated with them.

Officers and stewards should be thoroughly familiar with the structure of the union in order to be able to explain it to their members.

GENERAL INFORMATION

- Local union officers must be notified of address changes promptly; also the names and addresses of members who may not be receiving publications.
- Each member should receive two publications. These are: "THE WISCONSIN STATE EMPLOYEE" and the "PUBLIC EMPLOYEE". In addition, periodic newsletters are sent to members, especially during legislative sessions when important action is taken on vital bills affecting civil service employees.
- Local meeting dates should be noted and stewards should assist in publicizing them.
- Local unions are governed by a constitution and by-laws; these should be studied in order that provisions are understood and followed in conducting business of the unions.
- Most locals have a Flower or Sunshine Fund with contributions or floral offerings in cases of illness and death among the members. Stewards should know the rules governing such funds and see that proper officials are notified when they learn of the sickness or death of a member.
- Officers and stewards should assist management at times when there are special projects of community-wide interest to be undertaken in their

respective departments. This type of cooperation builds good public relations both within and outside the place of employment.

Marshall Field, Vice President of U.W. Employees Local 171 (left), is shown making presentation of television set to University Hospitals.

Many local unions from time to time sponsor special programs for various worthy causes; this is especially true in hospitals and institutions. At such times, stewards can be very helpful in promoting such events.

- Stewards should see that members receive their membership cards and union buttons.
- If stewards have questions or need more information they should contact officers of the local.

ADDRESSES

Wisconsin State Employees Association
713 Insurance Building
Madison, Wisconsin, 53703
Telephones: 257-1064 or 257-1065 (Area Code 608)

American Federation of State, County, and Municipal Employees—AFL-CIO
815 Mount Vernon Place, N.W.
Washington 1, D.C.
Telephone 393-8430

LOCAL UNION OFFICERS

President .....

Vice-President .....

Secretary .....

Treasurer .....

How to set up LOCAL GRIEVANCE PROCEDURES

How to set up local grievance procedures

Grievances in most unions take up more time than any other union activity. The right of a union member to file a grievance against management is one of the pillars of collective bargaining. No employee should hesitate to complain if he believes he has been wronged. Grievances should be taken to the steward, who initiates action with the employer.

What's a grievance?

A grievance is a complaint against management charging a violation in working rules and fixing responsibility on the employer.

The steward's job

As steward it is your job to determine whether an employee has a legitimate grievance. If he hasn't, you must tell him that he doesn't have a case. If he has a case, then you must prepare it for presentation to his supervisor.

Do your homework

Before you can process a grievance you must know your work rules. You will usually find these rules in one of three places:

1—Your contract, if applicable.

2—Department regulations.

3—City or state civil service regulations.

Grievance, or complaint?

Don't waste time trying to decide whether or not a complaint constitutes a grievance. Most complaints are entitled to some consideration.

Generally, you can tell a complaint from a grievance by asking yourself these two questions:

1—Did management violate the agreed working rules? If the answer is "Yes," the worker certainly has a grievance.

2—Has management treated the member unfairly? If the answer is "Yes," he probably has been aggrieved.

Check the contract

Most rank-and-file workers are unable to tie their grievances to the contract, or other set of regulations. This is the steward's job. If

you have done your homework, you should be able to locate the specific clause that has been violated.

THE FIRST STEP

Most grievances are settled between the steward and the supervisor. When an employee comes to you charging a grievance you should quickly evaluate the situation and try to orally work out an agreement with the worker's supervisor.

Get the facts

Listen to the worker's story. Don't hesitate to break in and ask specific questions: What happened? Who is involved? Where did it happen? When? Why? Who is affected? Have the rules been broken? What kind of a settlement is wanted?

Check the facts

It is best for your presentation that you make an objective check of the case. The employee's objectivity may be clouded by his personal involvement. You can't afford to have your case riddled with loopholes.

Stop and think

Before you go to see the supervisor, stop and think. Ask yourself these questions:

1—Have I obtained all the facts from the worker?

2—Do I have all the other information I need?

3—Have I checked the working rules?

4—Have I explained the case to the member?

Take the member with you

Always take the member with you when debating his case with management. It's his problem and his union and he has the right to see how his union representative handles his case. But you should do the talking.

Be diplomatic

Enter into conversation with the supervisor as an equal. You aren't asking for a favor. If a rule has been broken it is the obligation of management to correct that error. On the other hand, it does no good to be high-handed.

Talk sensibly—and briefly. Stick to the point. If the supervisor tries to sidetrack you, bring the conversation back to the case. If you win your point, don't belabor the issue; express your satisfaction and get out. If you are not satisfied, go on to the next step in your grievance procedure.

STEP NO. 2

In most instances the second step in the grievance procedure is discussion with the department head. Submit a formal grievance in writing to management. Management then will probably instruct the department head to meet with the union—if the issue is work rules—otherwise the grievance will go directly to a higher level.

Write it out

If the grievance has not already been written out, do it at this stage. The grievance should be documented to provide all involved parties with an account of the charge. Written reports also provide the union with records of grievances and form the basis of any appeals. The fate of the case may depend on the accuracy and completeness of your report.

Filling in the form

Complete the grievance form in detail. List the time, place and specific grievance. Name the section of the agreement that has been violated. If retroactive pay or lost time is demanded, give exact dates for which pay or time is due. State clearly what action you want. Don't forget to sign the form and to have the employee endorse it.

Meeting with the department head

A union representative may be called in here. At any rate, don't forget to bring the employee. The department head will probably have the supervisor with him.

STEP NO. 3 – MANAGEMENT

The departmental level is normally the final plateau of the grievance procedure for public employees. If satisfaction has not been attained with the department chief, then you must take the issue to management. Your representative is available for assistance.

STEP NO. 4

In some states there is a court of last resort. Laws or contracts sometimes provide for arbitration or civil service review or final

adjudication by a state personnel officer. Check the laws in your state and your contract for any fourth levels of grievance procedure.

LET'S REVIEW

The steward

The success of grievance operations hinges on the steward. You as steward form the backbone of your department's grievance procedure. In most cases you and the immediate supervisor will settle employee complaints.

Preparing yourself

Before any worker comes to you with a complaint you should be familiar with the operations and problems of your department. You should also have enough knowledge of the rules guiding work conditions so that you can refer to them when necessary.

Evaluating complaints

The first thing to do when an employee comes to you with a complaint is to check if there has been a violation of work rules. If you're uncertain, call on a union representative to help you. If the worker has no case, tell him so.

Steward-supervisor level

If you decide the employee has a legitimate grievance, check his story, prepare your case, and—with the worker at your side—present the case to the supervisor—orally if possible. If you fail to get satisfaction, take the case up to the next rung in the grievance ladder.

In-plant appeals

Most public employee grievance procedures provide for grievance appeal within your institution. You may wish to call in a union representative at this point. In some instances the next step is with the department head, in others, appeals go directly to top management.

Outside jurisdictions

In some municipalities and states, an aggrieved employee has recourse to final adjudication outside his place of work. Any cases which have not been satisfactorily settled and where such recourse is available should be heard at these final courts or boards of last resort.

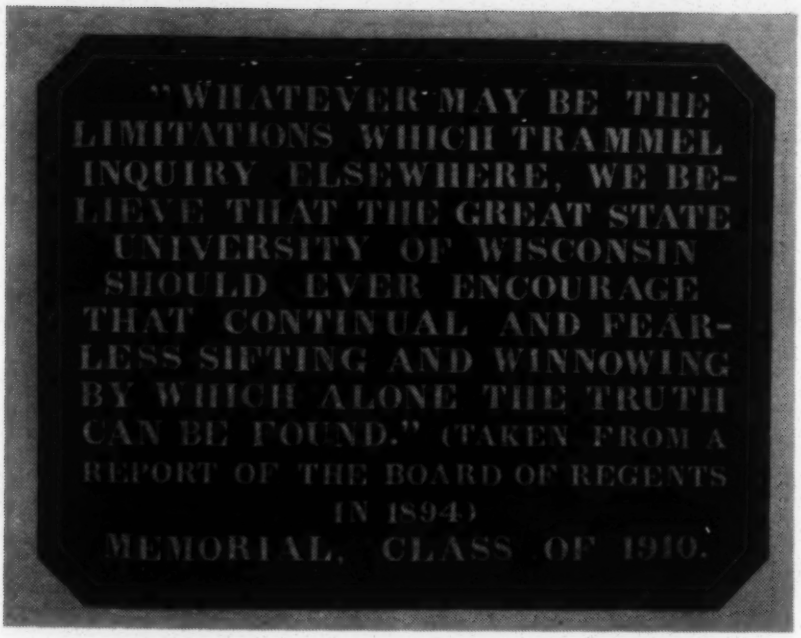
AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES • AFL-CIO

815 Mt. Vernon Place N.W., Washington 1, D. C.

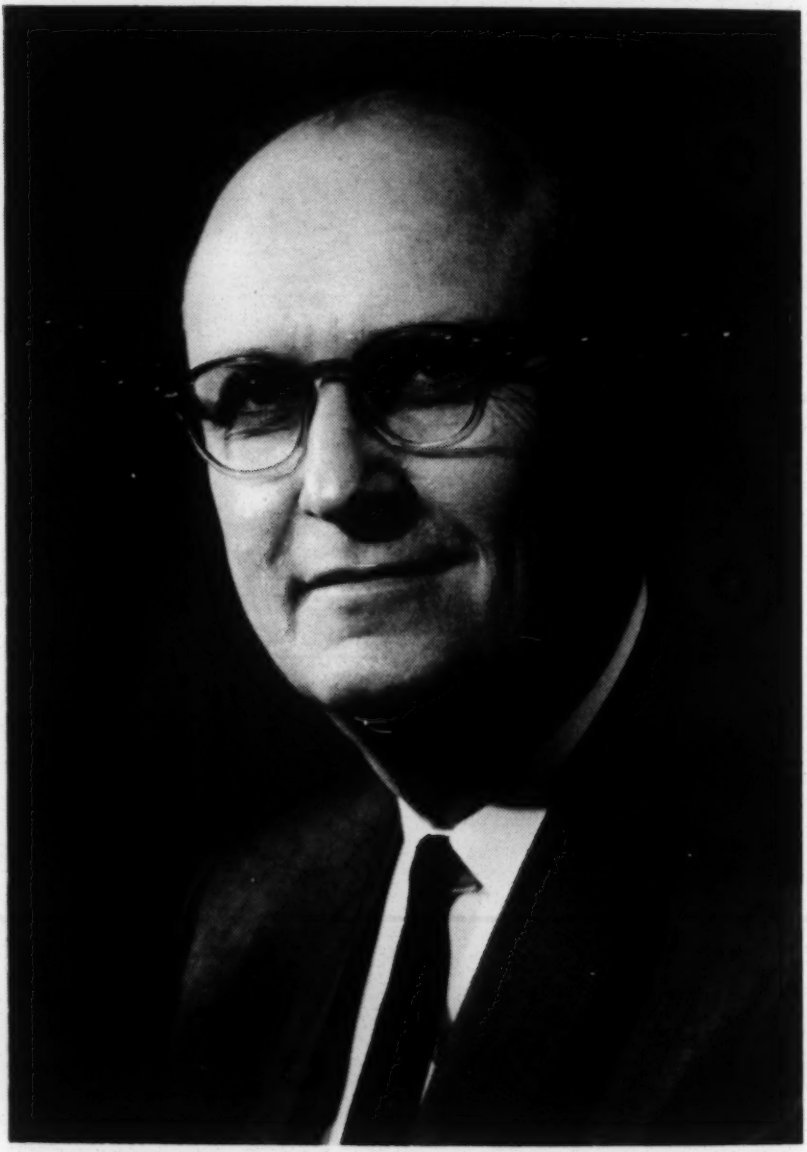
THE UNIVERSITY OF WISCONSIN

HANDBOOK

FOR CLASSIFIED SERVICE EMPLOYES



Published by
THE PERSONNEL OFFICE
of
THE UNIVERSITY OF WISCONSIN



TO SERVE

A Note from the President of the University to You:

Around the world The University of Wisconsin is known as the University that serves. To build that reputation took a hundred years and the dedicated work of many thousand people. For what a University is, it is because of the people associated with it, their principles and ideas, their energy and performance.

You can feel the spirit of service in Wisconsin students and alumni; you can contribute to this spirit as a member of the staff. What any one of us adds to the progress and worth of the University can be only very little. But our combined strength can move this University quickly forward toward an even greater era of service in the future.

To every contact each of us has with others we can add the dimension of helpfulness. If we can manage this, the University will advance and all mankind will benefit.

Fred Harvey Harrington

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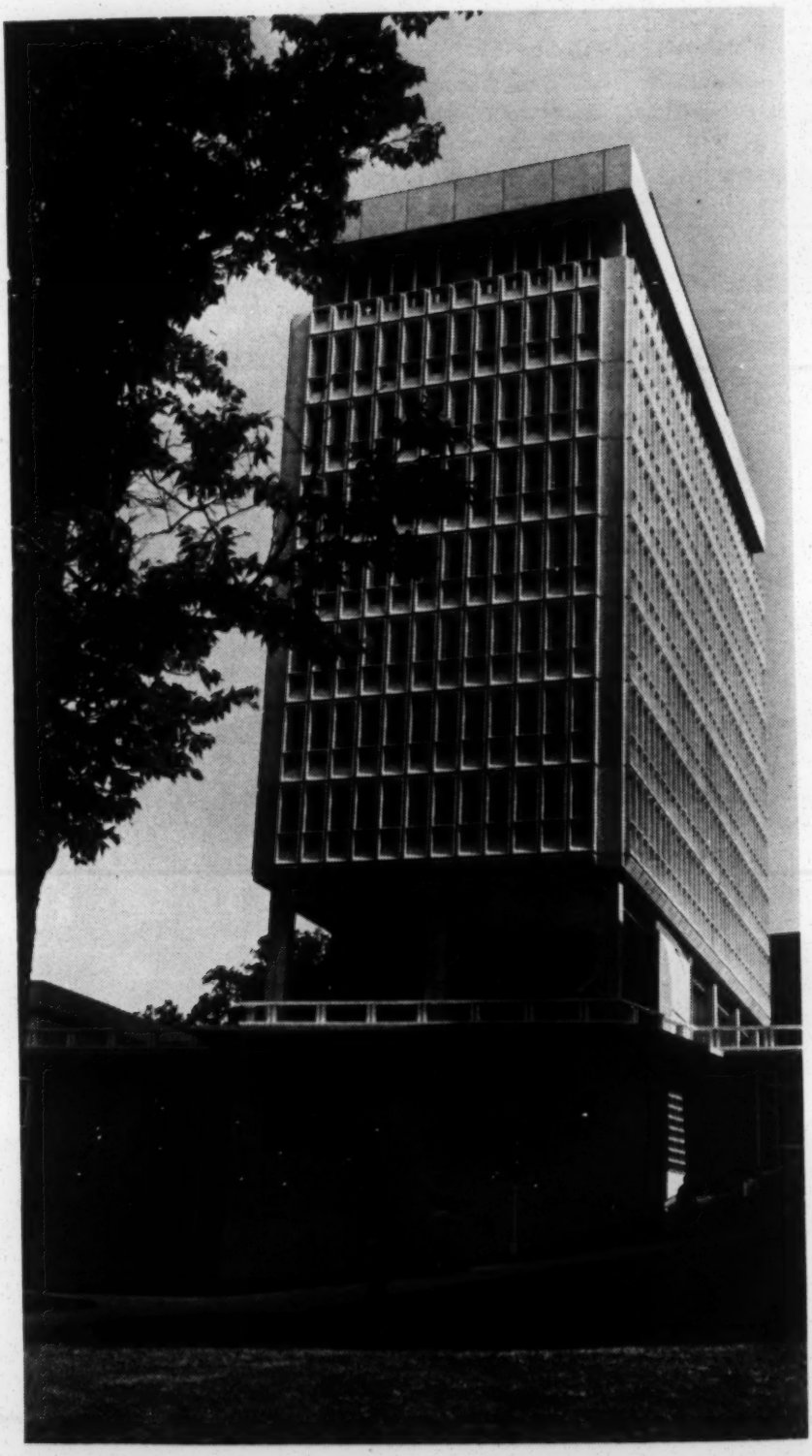
FOREWORD

The University Personnel Office extends a warm welcome to you as a new member of the Civil Service Staff. The importance of the part you play as a member of this staff cannot be stressed enough, for it is only through the cooperative efforts of everyone that the University has developed from its modest beginnings into one of the greatest educational institutions in the world.

To aid you in gaining a full understanding of your employment, the Personnel Office has prepared this booklet. It must be borne in mind that this booklet is in no way intended to replace the legislation which regulates Civil Service employment, but rather, to acquaint you, in a general way, with the factors involved so that you know what you can expect from State service, and what State service expects from you.

Any questions which remain unanswered after reading this booklet should be addressed to your departmental representative or the University Personnel Office which, as a service agency to you and your department, records and administers all aspects of your employment.

Once again we welcome you to the staff and wish you well in what we hope will be a long and pleasant association with The University of Wisconsin.



DOING YOUR JOB

All employes of the University have their individual jobs to do, but they are still members of one large group. They all work together to make the University a success in its greatest function—serving the State. The best way to remember this is to think of the boundaries of the University as being the boundaries of the State.

As an employe, you will be aiding the University in attaining this goal. Thus, you must think of yourself and your job as definitely contributing to the welfare of the people of Wisconsin.

The University has a great number of students, faculty, and visitors every year. Many of them will form an opinion of the University based on how well you treat them and on your own attitude toward the work you are doing. You will be serving the University's interests if you will always go out of your way to see that they are well treated while they are here.

Proper attitude and courtesy on your part also apply to your working relationships with other University employes. If you think of yourself as a member of a team, you will be able to see that it is very important for you to "play ball" with your teammates. Keeping a pleasant, loyal attitude toward your work and your associates will mean success for you and for The University of Wisconsin.

THE PROBATIONARY PERIOD

When you begin working at The University of Wisconsin, you serve a probationary period of six months to let your employer know that you can "fill the bill" on the job. It is also an opportunity for you to decide whether or not you want to stay on the job. After the probationary period is completed, you become a permanent employe and receive a probationary increase in your salary. Some employes, who have already served a probationary period, serve another after a promotion, transfer or re-entrance into state service.

PERFORMANCE REPORT

Wisconsin State Law requires that a written report be filed each year on your performance on the job. Your supervisor will evaluate your performance on the basis of standards which have been established for your position. He will then sit down with you and discuss your progress in your job. In this way you will always know what is expected of you, and what you can expect from your job.

WORK HOURS

Most university employes work a 5-day, 40-hour week. Some departments, however, must stay open from 17 to 24 hours each day and must adjust their schedules to fit their needs. Your department will let you know exactly what your working hours will be.

PHYSICAL EXAMINATION

University employes are required to submit to a chest X ray, the certification of which must be forwarded to the Personnel Office. This certification must then be renewed every three years.

COMPENSATION

PAYDAY

You are paid once a month and most of the paychecks are issued on the eighth of the month. Hourly-paid skilled shops men and those who become employed in the middle of the month or later receive checks on the tenth of the month. An especially convenient service offered by the Payroll Office is that of mailing your check to your bank. The bank then deposits the check in your account and mails you a receipt. Contact your departmental secretary to sign up for this service.

Each time you receive your check, you also get an additional card that tells you how much you earned and how much was deducted from these total earnings. Some of these deductions, such as hospitalization insurance, payroll savings and life insurance, are deductions for particular fringe benefits that will be taken off only if you join the plan and give your approval. Your departmental secretary will be happy to explain these deductions.

MERIT INCREASE

In addition to getting a probationary increase, you can also earn a merit increase on July first, if you have continued to do a good job. These merit increases can be repeated each year until you reach the maximum of your salary range.

SOCIAL SECURITY

As an employe of The University of Wisconsin, you will be required to participate in the O.A.S.I. (Social Security) immediately upon your employment with the University. Deductions will be made from your paycheck each month in accordance with the percentage prescribed by the Federal Government.

RETIREMENT

Most of us who work at the University are automatically enrolled in the retirement system for State employes, upon serving a qualifying period.

The pension program is financed by equal contributions on the part of yourself and your employer. Each month a certain percentage of your salary is deducted from your pay and deposited in your retirement account. You may make additional contributions if you wish. If you transfer to another State department or if you take employment with a county or municipal department which participates in this system, your retirement program will continue without interruption.

A minimum death benefit will be paid to your beneficiaries if you should die while in active employment. Under certain conditions a survivorship annuity will be paid. In case of total and permanent disability you will become eligible for a disability annuity.

At the time you retire, you may choose among several types of retirement benefits. You may retire as early as 55 if you have enough credits; you may be retired at the discretion of your employing department when you become 65 unless you are given a year's extension, but it is not mandatory that the department do so. Should you wish any further information concerning your retirement, do not hesitate to take the matter up with your supervisor or the Personnel Office.

GROUP LIFE INSURANCE

Group Life Insurance is available to you through two sources. The University of Wisconsin Employes Incorporated offers you a plan on a voluntary basis, whereas the State Group Life Insurance is automatic unless you sign a waiver indicating you do not want the insurance. See your departmental secretary for detailed information on both plans without delay. For any further information, call the Payroll Office.

HOSPITAL AND SURGICAL INSURANCE

The University of Wisconsin offers group hospitalization plans for your benefit at a reasonable cost. To find out what types of plans are available and the necessary details on these plans, contact your departmental secretary or call the Payroll Office. Membership is voluntary.

U. S. SAVINGS BONDS

You are also eligible to participate in the University's Payroll Savings Bond plan. If you wish to have a certain amount of your salary put toward United States Savings Bonds each month (you may buy a whole bond or only a part of one each month), tell your departmental secretary. For additional information call the Payroll Office.

TIME OFF

VACATION

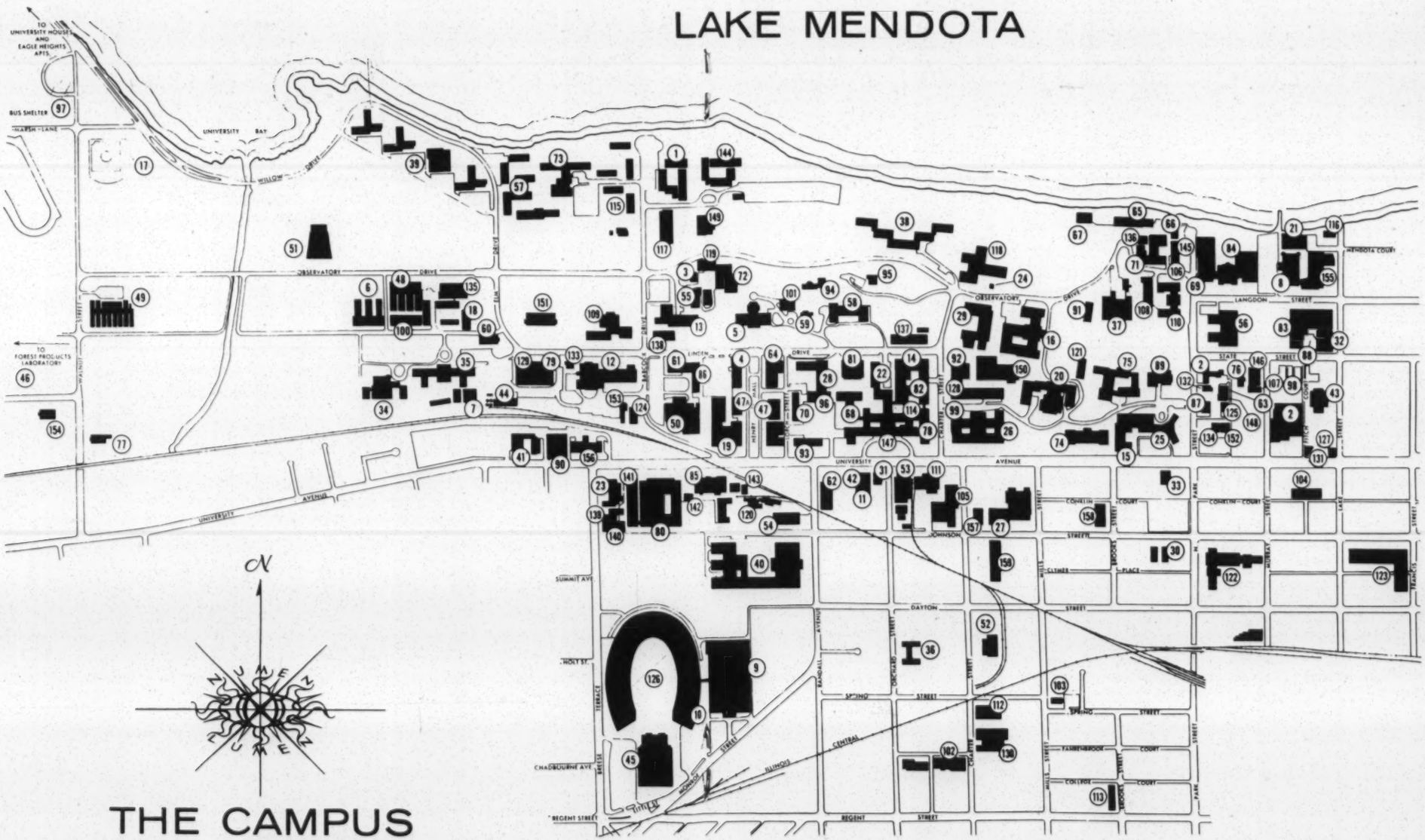
As an employe of The University of Wisconsin you are entitled to two weeks vacation per calendar year for the first five years of service, three weeks per calendar year after five years of service, and four weeks per calendar year after twenty years of service. The time at which you take your vacation is a matter to be decided between you and your supervisor.

SICK LEAVE

For every month of service that you complete, you earn one day of sick leave. Unlike vacation, earned sick leave days may be used during the probationary period. Sick leave is cumulative, and whatever is not used may be saved until you have saved sixty days. Sick leave accumulated in excess of sixty days is credited to your "reserve" account, to be used in case of serious illness, after your regular sick leave has been used up. There are some important things to remember, however, about sick leave: (1) you may use it only when you or a member of your immediate family is ill, and it is necessary that you care for this person until other arrangements can be made; or when a death occurs in the immediate family; and (2) when illness develops, be sure to call you supervisor, departmental secre-

THE UNIVERSITY OF WISCONSIN

Campus Map


LAKE MENDOTA
TO UNIVERSITY HOUSE AND EAGLE HEIGHTS APTS.
BUS SHELTER
MARSH LANE
UNIVERSITY BAY
WILLOW DRIVE
OBSERVATORY DRIVE
TO FOREST PRODUCTS LABORATORY
WALNUT STREET
UNIVERSITY AVENUE
LINDEN DRIVE
BABCOCK DRIVE
HENRY MALL
ELM DRIVE
LANGDON STREET
STATE STREET
MENDOTA COURT
CONKLIN COURT
JOHNSON STREET
DAYTON STREET
SPRING STREET
FARWELL STREET
COLLEGE COURT
REGENT STREET
SUMMIT AVE
HOLT ST.
TERRACE
CHADBOURNE AVE
BASCOM
MONROE STREET
ILLINOIS CENTRAL
RANDALL AVENUE
ORCHARD STREET
BROOKS STREET
PARK STREET
N. MIDVALE
N. SEGOE
N. TEMPLE
N. BLACKHAWK
N. HIGH
N. LAKE
N. FRANKLIN
N. HENRY
N. LAKE
N. MARYLAND
N. MARTIN
N. MARTIN
N. MARTIN

References for the Campus Map

NO.	NAME	REFERENCE
1	Adams Hall	D- 6
2	Administration Building	F-11
3	Agricultural Bulletin Building	E- 6
4	Agricultural Engineering	F- 7
5	Agricultural Hall	E- 7
6	Agronomy Seed	E- 4
7	Animal Research Laboratories	F- 4
8	Armory (Old Men's Gym)	E-11
9	Athletic Practice Building	I- 7
10	Athletic Ticket Office	I- 6
11	Audio-Visual Instruction, Bureau of	G- 8
12	Babcock Hall	F- 6
13	Bacteriology	E- 6
14	Bardeen Medical Laboratories	F- 8
15	Barnard Hall	F-10
16	Bascom Hall	E- 9
17	Baseball Field	D- 2
18	Beef Barn	E- 4
19	Biochemistry	F- 7
20	Birge Hall	F- 9
21	Boathouse	D-11
22	Bradley Hospital	F- 8
23	Breese Terrace Dining Units	G- 6
24	Carillon Tower	E- 9
25	Chadbourne Hall	F-10
26	Chemistry	F- 9
27	Chemistry Research	G- 9
28	Children's Hospital	F- 7
29	Commerce	E- 9
30	Cooperative Dorms: Zoe Bayliss and Susan Davis	H-10
31	Co-op Store: Annex	G- 8
32	Co-op Store: Main	E-12
33	Crime Lab, State	G-10
34	Dairy Barn	F- 4
35	Dairy Cattle Research Center	F- 4
36	David Schreiner House	I- 8
37	Education	E-10
38	Elizabeth Waters Dorm	D- 8
39	Elm Drive Dorms	D- 4
40	Engineering	H- 7
41	Enzyme Institutes	G- 5
42	Extension Annex	G- 8
43	Extension Building	F-12
44	Farms Manager's Office	F- 5
45	Field House	J- 6
46	Forest Products Lab	F- 1
47	Genetics	F- 7
47A	Genetics (old) (now, Dairy Science)	F- 7
48	Genetics Research	E- 4
49	Greenhouses: New	E- 2
50	Greenhouses: Old	F- 6
51	Gymnasium: New	D- 3
52	Heating Plant: New	I- 9
53	Heating Station: Old	G- 8
54	Highway Lab, State	G- 7
55	Hiram Smith Hall	E- 6
56	Historical State Library, State	E-11
57	Holt Dorms	D- 5
58	Home Economics	E- 8
59	Home Management House	E- 7
60	Horse Barn	E- 5
61	Horticulture	F- 6
62	Hospital Records Office	G- 7
63	Housing Bureau and Personnel Office	F-11
64	Hygiene Lab, State	F- 7
65	Hydraulics Lab	D-10
66	Hydrobiology: Q-14	D-10
67	Hydrobiology Lab: New (Limnology)	D-10
68	Infirmary	F- 8
69	Information Booth (Union)	E-11
70	Intern-Resident Dorm	F- 7
71	Journalism	E-10
72	King Hall	E- 7
73	Kronshage Hall	D- 5
74	Lathrop Hall	G- 9
75	Law School	F-10
76	Library School	F-11
77	Malt and Barley Research Lab	F- 1
78	McArdle Memorial Lab	F- 8
79	Meat & Animal Science: Stock Pavilion	F- 5
80	Mechanical Engineering	G- 6
81	Medical Library: New	F- 8
82	Medical Sciences	F- 8
83	Memorial Library	E-11
84	Memorial Union	E-11
85	Minerals & Metals Engineering	G- 6
86	Moore Hall (Agronomy)	F- 6
87	Music Annex #1	F-11
88	Music Annex #2	F-11
89	Music Hall	F-10
90	Naval ROTC Armory	G- 5
91	North Hall	E-10
92	Nuclear Research Lab	F- 9
93	Nursing, School of	G- 7
94	Observatory	E- 7
95	Observatory Office Building: News & Publications Services, Social Work	E- 8
96	Parking for Visitors: Lot 20	F- 7
97	Parking for Visitors: Lot 60	C- 1
98	Parking for Visitors: Lot 88	F-11
99	Pharmacy	F- 9
100	Poultry Research	E- 4
101	Pre-School Laboratory	E- 7
102	Primate Laboratory	J- 8
103	Protection and Security	I- 9
104	Psycho-Educational Clinic	G-11
105	Psychology: New	G- 8
106	Psychology: Old, 600 N. Park	E-10
107	Purchasing Department	F-11
108	Radio Hall	E-10
109	Russell Laboratories	E- 6
110	Science Hall	E-10
111	Service Building	G- 8
112	Services Building (New): Photo Lab and Duplicating	I- 9
113	Service Garage	J- 10
114	Service Memorial Institutes	F- 8
115	Short Course Dorms	D- 6
116	Sigma Chi House (now UW property)	D-12
117	Slichter Hall	D- 6
118	Social Science	E- 9
119	Soils	E- 6
120	Solar Energy Research Lab	G- 7
121	South Hall	F-10
122	Southeast Dorms: A	H-11
123	Southeast Dorms: B	H-12
124	Speech and Hearing Rehabilitation Center	F- 6
125	Squire House	F-11
126	Stadium	I- 6
127	Statistics	G-12
128	Sterling Hall	F- 9
129	Stock Pavilion	F- 5
130	Stores	J- 9
131	Student Counseling Center	G-12
132	Student Employment	F-11
133	Studio: Artist in Residence	F- 5
134	Superior Students Laboratory	F-11
135	Swine Barn	E- 4
136	T-7: Sanitary Lab Annex	D-10
137	T-12-13: Classrooms	E- 8
138	T-16: ROTC Classroom	E- 6
139	T-21-22: Food Services Buildings	G- 6
140	T-23: Surveying & Mapping	G- 6
141	T-24: Engineering Annex	G- 6
142	T-25: Internal Combustion Lab	G- 6
143	T-27: Truck Laboratory	G- 7
144	Tripp Hall	D- 7
145	TV, WHA-, Studios	E-10
146	University Club	F-11
147	University Hospitals	F- 8
148	University Press	F-11
149	Van Hise Hall	D- 6
150	Van Vleck Hall	F- 9
151	Veterinary Science: New	E- 5
152	White House (Planning and Contruction)	F-11
153	Wildlife Management	F- 6
154	Wisconsin Alumni Research Foundation	F- 1
155	Wisconsin Center	E-12
156	Wisconsin Diagnostic Center	G- 5
157	Wisconsin Improvement Association	G- 9
158	YMCA: University Branch	G-10
159	Zoology Research	H- 9

tary, or emergency number specified by your department as soon as you find it necessary to stay home. If none of these people can be reached, call the Personnel Office and the message will get to your supervisor.

HOLIDAYS

Seven and one-half legal holidays are specified by the Statutes for each year. These are January 1, May 30, July 4, Labor Day, Thanksgiving, December 25, afternoon on Good Friday, and the afternoons of December 24 and 31. If January 1, May 30, July 4 or December 25 should happen to fall on a Sunday, the day following will be given as the holiday.

LEAVE WITHOUT PAY

Permanent employes may be granted a leave without pay not to exceed one year, except in case of illness or for educational purposes when it may be extended upon recommendation. If you desire a leave of absence, ask your supervisor for the proper form, fill it in, and return it to him. If the department head thinks your case worthy, he will forward it to the State Director of Personnel for approval. Leave without pay is granted for the following reasons: education purposes, where the University will benefit either directly or indirectly; working for a limited period in other employment where your experience would directly benefit your performance in the service of the University upon your return; maternity cases; and exceptional personal reasons not mentioned above. The department head may grant a leave of absence of not more than one month without the approval of the State Director of Personnel. If you fail to return when the leave of absence is over, you are automatically released from University service unless you can show that your failure to return was unavoidable.

MILITARY LEAVE

If you, as an employe of the University, should enlist or be called into the armed forces, you will receive a leave of absence covering the period of service. Also, if you should be called into civilian work of a special nature by the Federal Government or any of its agencies, you will be granted a leave of absence. Tenure, seniority, pay increases and other rights of employment at the University are not affected by this type of leave. Also, if you are on the state payroll at a time when you are ordered to an annual encampment or the equivalent, you are entitled to leave with pay, up to fifteen days in any calendar year, excluding Sundays and holidays.

JURY DUTY

If you should be called to serve on a jury, you are entitled to a leave of absence for the period you are engaged in such duty. State law provides that you shall suffer no deduction from nor interruption of pay because of such absence.

REST PERIODS

Rest periods are not provided for by law, but are extended as a privilege by most departments. Your supervisor will explain the policy of your department on "breaks." It is easy to see why everyone cannot be out on a "break" at the same time. Someone must be available to carry on the work. The supervisors will try to work out rest periods to the satisfaction of everyone. If rest periods cannot be taken just when they are wanted, it is because the supervisor, in considering the needs of the department, is unable to meet the request. Above all, don't abuse the privilege!!

BENEFITS

UNEMPLOYMENT COMPENSATION

All University employes (except students, teachers and employes engaged in agricultural labor) are eligible for unemployment compensation. In case of a layoff, report immediately to the Wisconsin State Employment Office so that benefits may be claimed.

WORKMEN'S COMPENSATION

Whenever you are on the job, you are covered by the Workmen's Compensation Law. This law provides that you shall receive compensation for time lost and payment for medical expenses for accidents or illnesses caused by your work. In order that you can be taken care of in the best possible manner, it is necessary that you report to your supervisor, at once, all accidents occurring on the job. He will make sure that immediate medical attention is received and that the proper forms are prepared and submitted to the University Personnel Office. The Personnel Office will see that the claim for compensation is submitted to State Industrial Commission in the proper manner so that full consideration will be received. In case of injury, a qualified physician, dentist, osteopath or Christian Science practitioner of your choosing should be consulted. (Note: Under the present law the cost of treatment by a masseur or a chiropractor will not be paid by the State. However, as these provisions are subject to periodic legislative review, it may be wise to check on which practitioners' services are collectable.) Whenever a request for information about an injury is received, either from the University Personnel Office or the Industrial Commission, answer the question immediately so the case will be settled as quickly as possible.

CREDIT UNIONS

You may invest your money or borrow at a reasonable rate at your credit union. These credit unions are made up of your fellow employes and are run for the benefit of all. The two credit unions available to handle various types of employes are:

(1) Service Credit Union (for all Physical Plant and Hospital nonprofessional, nonclerical employes)

(2) Faculty Credit Union (for all faculty and classified employes not mentioned in (1) above)

Visit your credit union and find out more about this financial opportunity open to you.

MERIT AWARDS

You have an opportunity to win cash awards under the Merit Award Board System. The Board was created to reward and encourage meritorious and unusual suggestions and accomplishments which promote efficiency or economy. If you have an idea for such an improvement in techniques or procedures, see your supervisor and ask about the Merit Award System.

TRAINING AND EDUCATION

The University of Wisconsin provides training and educational opportunities for its employes. These opportunities are presented both in the University Extension Division correspondence and night courses, and in the training institutes sponsored and administered by the University Personnel Office. The Extension Division offers a wide variety of interesting subjects, many of which provide high school or college credits for satisfactory work. If you are interested in supplementing your education, this is an unusually fine source.

The Personnel Office provides training for clerical workers, supervisors, secretaries, administrative personnel, and others. These training courses are held from time to time and are circularized among the various University departments. An employe may participate during working time with the permission of his supervisor and department head.

STAFF NEWS

Staff News is a lively little publication filled with news, humor, announcements, information about the University and a variety of other features. It is distributed free to all employes of the University and is prepared at the Personnel Office. If you feel that you have an item which would be of interest, please submit it to the Personnel Office.

ATHLETIC EVENTS

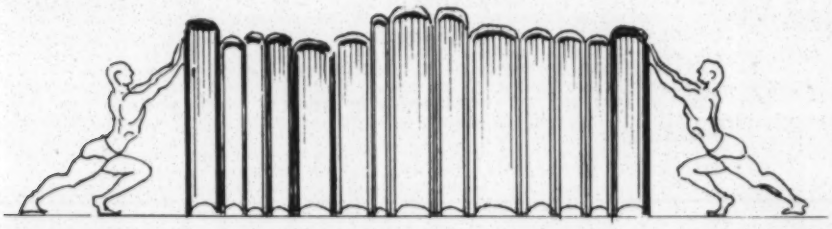
If you're interested in football, basketball and other sports, you will want to take advantage of the athletic activity books for which you are eligible. These activity books entitle full-time, permanent employes working on the Madison campus to attend intercollegiate athletic events. The price is reasonable and married employes may purchase a book for their husband or wife. Applications for activity books may be picked up at the Athletic Ticket Office and returned in accordance with announcements released by that office. Watch your bulletin board for announcements concerning activity books, or call the Athletic Ticket Office.

EMPLOYE HOUSING

As an employe of The University of Wisconsin, you are entitled to use the facilities of the Housing Bureau to assist you in finding a place to live. You may come to the Housing Bureau at any time and the staff will aid you by discussing your needs and by showing you what the Bureau has available.

THE UNIVERSITY LIBRARY

The facilities of the Memorial Library are available to employes of The University of Wisconsin. When you want to borrow a book, go to the library and submit your employe identification card. The library will then issue a special library identification card to you.



THE WISCONSIN MEMORIAL UNION

The Memorial Union, located at the corner of Langdon and Park streets, is the "living room" and "dining room" of the campus—for students, faculty, alumni, and staff. All university employes are welcome to use the following facilities:

(1) Dining rooms including the Cafeteria, overlooking the lake; the Rathskeller (for snacks and lunches); Tripp Commons on the main floor (self-service buffet); and the Inn Wisconsin (waiter service). If you work on the west side of the campus, the Breese Terrace Cafeteria, corner of Breese Terrace and University Avenue, operated by the Memorial Union, serves breakfast, noon and evening meals, and snacks between meals.

(2) Lounges, checkrooms, barber shop, and meeting rooms (for employe organizations).

(3) Theater public admission programs—plays, concerts, lectures.

(4) "Movie Time"—movies in the Play Circle.

If at any time you are asked for identification, show your employe identification card. Although the dining rooms are reserved

for your personal use, you are invited to bring family or guests to theater and Play Circle admission events.

There are many more Memorial Union facilities and programs which are supported by student, alumni, and staff membership fees and which are open to you and your family and guests if you are a member of the Memorial Union. These member privileges include:

(1) The use of game rooms, hotel rooms (discount on room rates), private dining rooms, library, galleries, music rooms, and many other facilities.
(2) Free admission to many concert, lecture, movie, and theater programs.
(3) Reduction in ticket price for "Movie Time."
(4) Preference in reserving seats for the paid admission events which are sponsored by the Union in its theater.
(5) Notification by mail of all Memorial Union programs.
(6) The privilege of entertaining family and guests at the building.

All employes are cordially invited to become members of the Memorial Union. The membership fee is the same as paid by students. We welcome a visit from you to the Memorial Union Membership Office to discuss your membership.

SERVICE CLUBS

There are two Service Clubs on the University campus which have been organized for service, good fellowship and fun. The University of Wisconsin Service Club is a group of men in mechanical, maintenance, building, and other service positions. Annual dues help pay for a number of "stags" and mixed parties that are held at regular intervals throughout the year.

The Women's Service Club is made up of women employed on the campus, and they too, along with their service, have their share of parties and entertainment throughout the year.

CHANGES IN STATUS

PROMOTIONS

All promotions are competitive, which means that other employes are also competing for better jobs. Promotional examinations are usually written examinations and in order to qualify to write the examination, it is necessary to apply on or before the announced deadline for such application. Watch for announcements on your departmental bulletin boards.

TRANSFERS

Once you become a permanent employe, you are eligible to transfer from one job to another in the same classification, provided that: (1) the transfer is agreed upon by the department to which you wish to transfer; (2) the transfer serves the best interests of the University; and (3) you are able and qualified to do the work in the department to which you wish to transfer. If you feel that you would like different work, call or visit the Personnel Office for information on other job opportunities at the University.

LAYOFFS

In the event of a shortage or stoppage of work or funds, the University might find it necessary to lay off a certain number of employes until such time as they can again be placed on the working force. Layoffs are made within the classification which is affected. The order of layoffs is as follows: (1) all short-term and seasonal employes; (2) all probationary employes; (3) permanent employes with less than five years of service; (4) permanent employes with over five years of service. All employes considered for a layoff shall be ranked according to their performance and the ranking shall be based upon recent and comparable standards of performance. Layoffs shall then be made within the group under consideration according to the relative performance rankings so that the most efficient employes will be retained.

RESIGNATION AND REINSTATEMENT

If you should find it necessary to resign your position at the University try to give your department at least two weeks notice. More important, to retain your future reinstatement rights, write a letter to your department head, indicating your intention to resign, at least fifteen days prior to such resignation.

TRAFFIC AND SAFETY

TRAFFIC

The University Police division of the Department of Protection and Security enforces motor vehicle laws and campus rules. Following are some rules to guide you when you drive on the campus.

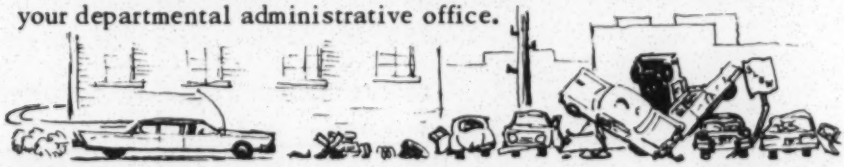
(1) The campus speed limit is 15 miles-per-hour

(2) Observe all Wisconsin Motor Vehicle laws

(3) Persons driving on the campus assume full responsibility for accidents occuring on the campus. The University cannot be responsible for care or protection of any vehicle or its contents while on University property.
(4) Motor vehicles cannot be driven on campus by or for students when classes are in session.
(5) Report all accidents to University Police
(6) Park only in the area designated on your parking permit

PARKING

A number of parking areas have been established by the University to accommodate employes, faculty, and certain students. A priority system has been established to determine who shall be allowed to use the limited space available. These people then purchase permits. If you need a place to park, check with your departmental administrative office.



FIRE

In case of fire, follow this procedure:
(1) Sound the fire alarm to alert all persons in the building
(2) Notify the Madison Fire Department. Dial Operator and she will place the call for you. Be sure you give them the NAME of the BUILDING
(3) Help disabled or confused persons out of the building

SERIOUS INJURY OR ILLNESS

One of your fellow employes may receive a serious injury or become seriously ill on the job. We hope that it never occurs but we must be prepared so that we know how to act in such a situation. Above all, do not attempt to move the person unless you are certain that he will not be harmed by such action. If the ill or injured person cannot be moved or if there is no transportation available, call an ambulance from the Department of Protection and Security. If the injured person has a preference as to where he should be taken, see that he gets there. If he has no preference, take him to the Emergency Room of University Hospitals. Call ahead no matter where the person is being taken and explain the nature of the illness or injury so that he will receive care immediately upon arrival.

GENERAL

I. D. CARDS

Your staff identification card serves to identify you as an employe of the University. Its validity continues only during your employment at the University. Be sure you have signed your card as it is your key to such services as use of the Memorial Union and Memorial Library.

BULLETIN BOARDS

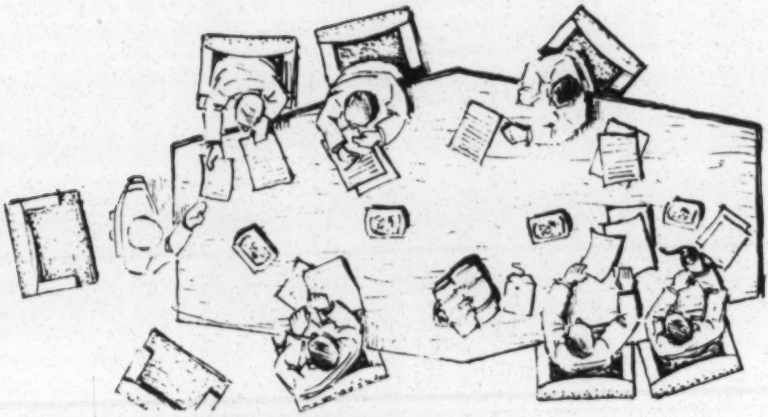
Each building has a number of bulletin boards which hold a great deal of useful and interesting information. Watch the bulletin boards and know what is going on.

MAKING PERSONAL CHANGES

If you get married, move from one address to another or have an increase in the family, your departmental secretary should be notified immediately. It is very important that your personal status is known at all times as tax statements or notices must be sent out from time to time.

EMPLOYE UNIONS

Union membership is optional in University employment. Employes of the University may, if they so desire, join The University of Wisconsin Employes' Local 171. Local 171 draws its membership from employes of the University and is an associated member local of the Wisconsin State Employes' Association.



LABOR MANAGEMENT BOARD

The University of Wisconsin has realistically met the challenge of employer-employe relations by establishing a Labor-Management Board. One of the first of its kind, this Board was set up in 1946 and has become increasingly active since that time. The major function of the Labor-Management Board is to consider and discuss employer-employe problems which arise, and to iron them out satisfactorily. Conclusions and subsequent resolutions are submitted to the Vice President. The Board does not, in itself, have authoritative or administrative powers; rather, it serves as an advisory board to the Vice President.

Ten members of the Board are elected as representatives of the employe staff. The other ten members are appointed by the Vice President. Board officers consist of the chairman and secretary. Much of the investigatory work of the Board is done by committees which then report to the Board at its regular meetings.

A résumé of the Board's activities is presented in each issue of Staff News. Read this carefully since most issues considered by the Board will affect you and your employment with the University.

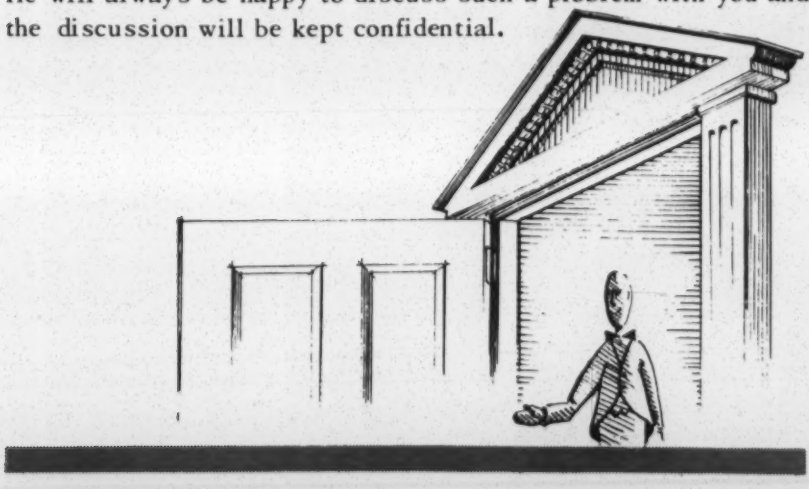
If at any time you feel that you have a problem (or know of one) which should be considered by the University Labor-Management Board, contact the Director of Non-Academic Personnel immediately. It is important that you watch your bulletin board and Staff News carefully for notices concerning the election of your representatives. Perhaps you, yourself, would make an excellent Board member.

OUR DOOR IS ALWAYS OPEN

Throughout this booklet it has been emphasized that we are all working together to do a big and important job. We sincerely want you to be happy in your job. We realize that you can't be happy if your mind is not at ease. Therefore, the "open door" counseling policy has been adopted to give employes a chance to air grievances and discuss problems freely.

Supervisors are important employes on the University staff who are responsible for the satisfactory accomplishment of necessary work. You have been employed by the University to assist your supervisor in doing this work. When you have a problem, take it to your supervisor. He will discuss with you all matters relating to your job. His experience qualifies him to understand your difficulties better than anyone in the University. Your supervisor may not always know the answer, but you can be assured that he will do what he can to help you find it. If your problem is a grievance, you should first attempt to work out a solution with your supervisor.

If you find yourself in need of professional help in overcoming or adjusting to vocational, social or personal problems, feel free to contact the Director of Non-Academic Personnel. Though your supervisor can assist you in many ways and it is always worthwhile to discuss such problems with him, the University recognizes that there are certain types of problems which demand professional guidance. If the Director of Non-Academic Personnel cannot help you, he will arrange for you to see someone who can. He will always be happy to discuss such a problem with you and the discussion will be kept confidential.



Here Are Some of the Advantages of AFSCME Membership

- The *only* union which works 100% of the time for public employees
- Chartered by the AFL-CIO for public employees
- Recognized and respected by public officials
- The union that is run by and for public employees
- The *only* union with the "know-how" to do the job for you.

Contact:

It's all Spelled out In our International Constitution

AMERICAN FEDERATION OF STATE
COUNTY AND MUNICIPAL EMPLOYEES
AFL-CIO

The Union
For Public Employees

WHERE WE'RE GOING

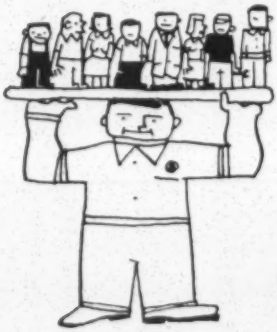
FROM THE INTERNATIONAL CONSTITUTION OF THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO, Page 4:

ARTICLE II

OBJECTIVES and METHODS

SECTION 1. The objectives of this organization shall be:

a. To promote the organization of workers generally and of public employees in particular.



b. To advance the social, economic and general welfare of public employees

c. To bring into closer relationship local organizations of public employees in order to foster cooperation.

d. To foster and promote a liberal and progressive public attitude toward public administration.

e. To cooperate in giving efficient government service.

f. To establish and maintain a clearinghouse of information and a consulting and research service for affiliates.

g. To extend and uphold the principle of merit and fitness in public employment.

h. To promote civil service legislation and career service in government, and assist in the recruitment into public jobs of trained and spirited young people interested in embarking upon public service as a career.

i. To promote and establish board and comprehensive disability and retirement plans for public employees which shall assure just standards of living.

j. To promote efficiency in public service generally.

HOW WE GET THERE

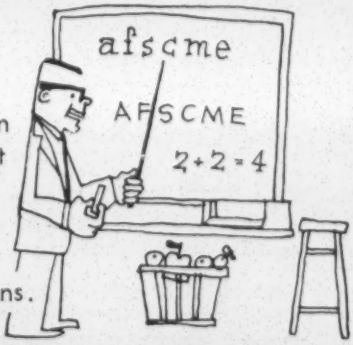
SECTION 2. The attainment of the objectives of this federation is to be accomplished through the employment of the following methods:

a. Cooperation with public officials.

b. Creation and fullest development of sentiment favorable to public service through a comprehensive educational program.

c. Promotion of required desirable legislation.

d. Conduct of an educational campaign designed to enlighten the general public with respect to the problems of government employees.



e. Exercise of other lawful means.

THESE PRINCIPLES, ENUNCIATED AT OUR FOUNDING CONVENTION ARE STILL HELD HIGH BEFORE US, EVEN THOUGH MANY OF THE OBJECTIVES STATED HAVE BEEN ACCOMPLISHED.

Who Are AFSCME'S Members?

American Federation of State, County, and Municipal Employees represents a combined total of 200,000

Maintenance Employees

Clerical Employees

Professional Employees

Institutional Employees

Administrators

Law Enforcement Officers

In Fact

IT REPRESENTS

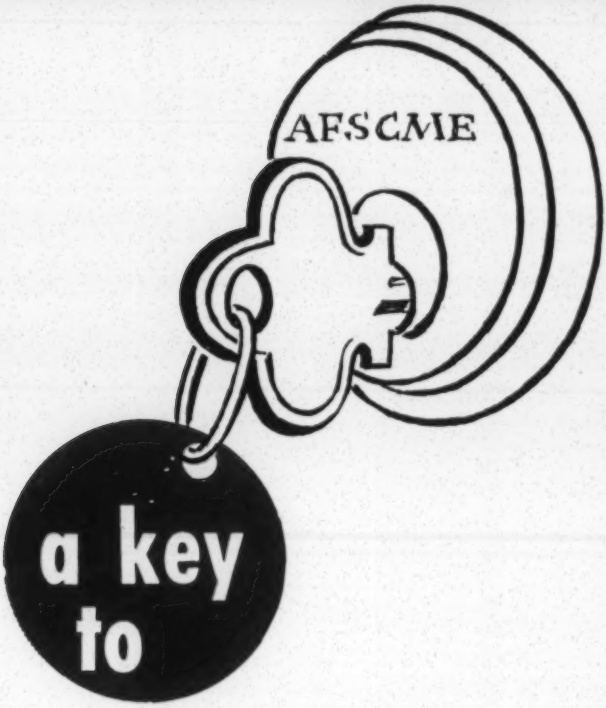
EVERY MAN AND WOMAN

IN PUBLIC EMPLOYMENT

AMERICAN FEDERATION STATE COUNTY AFL-CIO MUNICIPAL EMPLOYEES

140 I.P.E.U.

American Federation of State,
County, and Municipal Employees
815 Mt. Vernon Place, N.W.
Washington 1, D.C.



A federation of public employees established to

F oster and promote a progressive public attitude toward public administration in order to

S ecure a more efficient government service and, by

C ooperation, to uphold the highest principles of merit and fitness in public employment. By so doing, to

M aintain trained and spirited persons who will be devoted to promoting

E fficiency in public service generally.

FOR EMPLOYEE, EMPLOYER
AND
BETTER PUBLIC SERVICE

What and Why is AFSCME?

Chartered in 1936 by the American Federation of Labor, AFSCME has since become the international organization for 200,000 public employees.

Its members blanket the U.S., Canada and the Panama Canal Zone.

The membership is represented by 1,500 union locals whose objectives have won for them and the parent organization the respect of

- Governors
- Mayors
- City Managers
- City Councilmen
- County Commissioners
- Public Administrators

Negotiating and legislative activity are AFSCME's basic methods for achieving its goals.

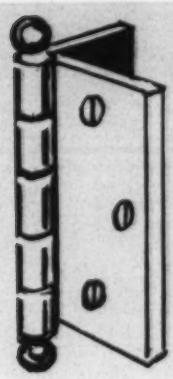
The organization is dedicated to serving not only its own needs but to improving service to the communities for which its members work.

It accomplishes this feat primarily by improving standards, to attract and retain the best qualified personnel available.

Why Recognize Locals?

It all hinges on this . . .

HAPPY WORKERS ARE EFFICIENT . . .



AND EFFICIENCY

REDUCES . . .

THE TAXPAYERS' BURDEN

The right to organize is held to be inalienable and inviolable and public employees are as much entitled to this right as employees of private industry.

Public employees organize in order to achieve a happier life for themselves and thus indirectly for their communities.

By uniting in a spirit of kinship, with the support of thousands of their kind behind them, they can feel secure and confident and thus give more freely and more enthusiastically of their energy.

This spirit of kinship can thus be taken to be the moving force behind more efficient and less costly service to the government and to the taxpayer.

How Does the International Work?

The AFSCME is organized in such a way as to guarantee democratic membership control of its affairs.

Structurally, the organization is composed of

- The International Convention
- The International Executive Board
- The International Officers
- The State and Area Councils
- The Local Unions

THE INTERNATIONAL CONVENTION is AFSCME's supreme governing body. It meets biennially to elect the international officers and executive board and determines policy for the next two years.

THE INTERNATIONAL EXECUTIVE BOARD consists of the international president, secretary-treasurer, administrative vice-president and 12 vice-presidents, all elected at the convention. This body governs the union between conventions.

THE INTERNATIONAL OFFICERS are the president, secretary-treasurer and administrative vice-president. Together, they plan and pursue policies and receive and disburse AFSCME funds.

THE COUNCILS are groups of locals which combine in order to better serve the interests of their members. They coordinate the activities of local unions and render greater service.

THE LOCAL UNION is the basic organization in AFSCME. It is immediately responsible for carrying out the mandates of its members.

How Are AFSCME Members Kept Informed of the Union's Financial Records?

In addition to quarterly reports made to the locals, international headquarters submits an annual audited report to all locals.

This is a detailed study analyzing the organization's assets and liabilities. Among other things, the report contains an analysis of how federation income is spent.

Other aspects of the International secretary-treasurer's report indicate what percentages of member's dues are used for the various functions carried on by the International office.

All officers and representatives of the International, Councils and locals are bonded for an amount determined by the Executive Board.

Monthly reports are made to the International office and statements therefrom are made to the local members.

Local treasurers are further required to keep accurate records, subject to audit, of receipts and expenditures. These records are made public in monthly operating statements.

ASK QUESTIONS!

THE MORE YOU KNOW ABOUT AFSCME THE MORE CERTAIN YOU WILL BE THAT YOU WANT TO JOIN AND TAKE AN ACTIVE PART IN BUILDING *YOUR* UNION.

American Federation of State, County and Municipal Employees—AFL-CIO

Washington, D. C.

JERRY WURF
INTERNATIONAL PRESIDENT

GORDON W. CHAPMAN
INTERNATIONAL SECRETARY-TREASURER

21

Concerned About Your Future?

for your own best interest

here are Five Facts you should know about

American Federation of State, County, and Municipal Employees, AFL-CIO

FACTS about the American Federation of State, County, and Municipal Employees (AFL-CIO)

1. What is the American Federation of State, County, and Municipal Employees?

We are a union with a quarter of a million members who work for states, counties and cities, and social agencies, in all parts of the United States, Puerto Rico and the Panama Canal Zone.

We are the 17th largest union in the AFL-CIO, and we are the fastest growing union anywhere in the country. We are the *only* union that works *exclusively* to promote the best interest of public employees. We are the *only* union with nearly 30 years of experience and know-how in successfully dealing with the problems and the goals of public employees.

2. What is the purpose of AFSCME?

We are dedicated to establish the rights of public employees everywhere to collective bargaining, and through collective bargaining to advance the economic, social and general welfare of public employees at all levels of government.

AFSCME has pioneered in achieving collective bargaining rights for public employees, and has proven beyond any question that where public employees organize *majority* unions and use the bargaining table to promote their interest they are able to make far greater progress in securing better wages, better hours, and better working conditions.

3. How are the aims and objectives of the AFSCME achieved?

Through the *active* participation of the members. Our union firmly believes that you as a member of AFSCME pay your dues for the *privilege* of participating in making decisions for your union and taking part in carrying out those decisions.

Our union believes that every member should be an organizer for his or her local union, and that they should aspire to be a shop steward, a member of a negotiating committee, or an officer of their union.

4. What services are provided by AFSCME?

As a member of AFSCME, you pay dues for the privilege of participating—but you get service, too. Your dues help to provide you and your fellow members with a trained professional staff to assist you in:

- Organizing to build a strong and effective union;
- Leadership training and education;
- Research material for the bargaining table;
- Legislation for bargaining rights and fair grievance procedures;
- Publications and public relations to keep you informed and to keep the public informed about you.

5. What will you gain by becoming a member of AFSCME?

You will add the strength of your voice and your determination to the 250,000 public employees who are already working together—as members of AFSCME—to build a better way of life for *all of us* who work for state, county, and municipal governments.

The gains you and your fellow public employees will make in the years to come are going to be measured by your determination to work *together*. Collective bargaining—not individual begging—is the *only* way public employees will ever attain better wages, better benefits, and better working conditions.

EV → Public Employee Unionism

THE UNIVERSITY OF MICHIGAN — WAYNE STATE UNIVERSITY
INSTITUTE OF LABOR AND INDUSTRIAL RELATIONS

Public Employment: A Neglected Area of Research and Training in Labor Relations

by RUSSELL A. SMITH and DORIS B. McLAUGHLIN

38

Institute of Labor and Industrial Relations

All Americans have a vital stake in the shaping of sound public and private industrial relations policies and in the expansion of pertinent knowledge and skills. The Institute of Labor and Industrial Relations is a joint agency of The University of Michigan (Ann Arbor) and Wayne State University (Detroit). It was established in the spring of 1957 in order to maximize the contribution of each University, in activities related to industrial relations, to the people of Michigan and to the educational and research needs of workers and management.

The Institute has three major functions: first, to facilitate regular university instruction in the disciplines and professions related to industrial relations; second, to encourage basic and applied research on industrial relations topics; and third, to organize and promote programs of community education in industrial relations designed to serve labor, management and the public.

* * *

From time to time, the Institute will publish or reprint research reports and other papers of interest to persons with a professional concern in industrial relations research, practice or policy.

CHARLES M. REHMUS
Co-Director

The University of Michigan
Ann Arbor

RONALD W. HAUGHTON
Co-Director

Wayne State University
Detroit

The Institute is grateful to the Industrial and Labor Relations Review for permission to reprint the enclosed article from its Vol. 16, No. 1, October 1962 issue. Russell A. Smith is Professor of Law at The University of Michigan and was formerly Co-director of the Institute. Doris B. McLaughlin is the Administrative Associate with the Institute.

PUBLIC EMPLOYMENT: A NEGLECTED AREA OF RESEARCH AND TRAINING IN LABOR RELATIONS

RUSSELL A. SMITH and DORIS B. McLAUGHLIN

PUBLIC EMPLOYMENT: A NEGLECTED AREA OF RESEARCH AND TRAINING IN LABOR RELATIONS

RUSSELL A. SMITH and DORIS B. McLAUGHLIN

THE problems presented by the labor relations of public employment are unique, and they are of increasing importance, not only to those directly concerned, but to the general public. It is the thesis of this article that these problems present a proper area of research and training at the university level, concerning which the colleges and universities of the country have neglected their full responsibilities.

We use the term "public employment" in its usual sense, as referring to direct employment by a public agency—federal, state, or local. We suggest, however, that in addition there are types of quasi-public employment, such as by contractors building or operating publicly owned facilities (for example, the missile-site installations at Cape Canaveral and the Atomic Energy Commission's production facilities) which involve difficult problems not found in purely private employment. These problems, although different in many respects from those of direct public employment, are both unique and of special public concern, and could appropriately be encompassed by our thesis.

LABOR RELATIONS IN PUBLIC EMPLOYMENT

Labor-management relations as a subject of academic study obviously has come of age. The existence of this *Review,* and of the Cornell School, attest to this fact. Throughout the land, colleges and universities have developed undergraduate and graduate courses, extension programs, and even degree programs in "industrial relations" or "labor and industrial relations" and related subjects. Interested private groups such as the American Management Association, trade unions, and individual employers have likewise given considerable attention to this area. These efforts, however, have been directed largely toward the private employment sector except for courses, research, and other programs having generalized application (in such fields as psychology, sociology, human relations, personnel administration, and job evaluation).

One reason for this lack of concern of labor relations specialists with public employment may be the fact that until recently the percent of the labor force engaged in such employment has been relatively small, and there has been an almost instinctive tendency to regard our economy as primarily one of private rather than public enterprise and employment. Another reason doubtless is the fact that also until recently the primary impact of aggressive trade unionism has been in the area of private employment, and there is no doubt that the growth of trade unionism has been a

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major factor contributing to the tremendously increased interest in and emphasis upon labor relations research and training in the last twenty-five years.

In 1930, only about 6 percent of the civilian labor force was engaged in public employment.[1] In the decade of the 1930's, labor relations developments in the private sector began to move swiftly under the impact of a rapidly expanding trade union movement, stimulated by favorable labor legislation. The educator and researcher in "industrial relations," confronted with the dynamic pace of these events, perforce had to pay heed to these developments, and his interests naturally were directed toward those developments. Both lack of interest and lack of felt need caused him to dismiss, very largely, the problems of employee relations in the public sector.

NEW DEVELOPMENTS IN PUBLIC EMPLOYMENT

Some important underlying facts have changed. The percent of the civilian labor force in direct public employment has doubled since 1930. (It is interesting that most of this increase has been at the state and local levels.) Some nine million people are now so employed.[2] The probability is that this upward trend will continue. The unionization of public employees, earlier regarded with almost universal public disfavor and suspicion, has made substantial progress[3] and has achieved some degree of acceptability. Recently, the executive branch of the federal government, through the Goldberg "Task Force" Report[4] and the resulting Executive Order,[5] has given substantial impetus to unionization of federal employees, and this should have even broader repercussions. Collective bargaining in some form exists in numerous instances and at all levels of public employment, and a number of written collectively bargained agreements are in force, some of which even include union security provisions.[6]

Thus, a great deal has been happening in recent years in the "labor relations" of public employment, while the eyes of educators and researchers in labor and industrial relations have been largely focused elsewhere. In terms of understanding, synthesis, and general standards, the situation in this area has been termed "chaotic."[7] The Goldberg Task Force speaks of "the relative lack of experience in any form of employee-management negotiations on the part of most Government officials and employees."[8]

[1]Letter of April 10, 1962 received from Harold Goldstein, chief, Division of Manpower and Employment Statistics, Bureau of Labor Statistics, U.S. Department of Labor.

[2]As of October 1961. UPI release, quoting a U.S. Census Bureau report of April 26, 1962, appearing in the *Ann Arbor News*, April 27, 1962, p. 24. Of general interest on this topic is a paper on "Trends in Public Employment" given in New York City before the Industrial Relations Research Association on Dec. 29, 1961 by Daniel H. Kruger. Mr. Kruger points out, at p. 1, that in actual numbers total public employment almost tripled between 1929 and 1960.

[3]See Eli Rock, "Practical Labor Relations in the Public Service," 18 *Public Personnel Review* 71 (1957), at p. 74. Charles C. Killingsworth estimates that in 1957 roughly 18 percent of all government employees were unionized. Killingsworth, "Grievance Adjudication in Public Employment," 13 *The American Arbitration Journal* 3 (1958), at p. 7.

[4]"A Policy for Employee-Management Cooperation in the Federal Service," Report of the President's Task Force on Employee-Management Relations in the Federal Service, Nov. 30, 1961.

[5]Executive Order 10988, Jan. 17, 1962.

[6]Arnold S. Zander, "A Union View of Collective Bargaining in the Public Service," 22 *Public Administration Review* 5 (1962), at p. 8 notes that 88 contracts containing such clauses have been negotiated by the American Federation of State, County and Municipal Employees, AFL–CIO.

[7]Rock, *op. cit.*, p. 71.

[8]*Op. cit.*, p. 35.

Administrators in government display increasing recognition, concern, and uneasiness about the lack of adequate guideposts for action.[9] Prima facie, legal standards relating to unionization of public employees are obsolete, since they have not been changed substantially for years. Eli Rock, labor relations consultant to the Mayor of Philadelphia, has summarized the plight of the public administrator this way:

> Those [administrators] who are trained professionals have usually, of course, received their training and experience in public administration. Up to now, unfortunately, the field has included little or no reference to problems of collective bargaining. Although many administrators have achieved at least a minimum *modus operandi* with their unions, this very lack of experience together with the lack of available adequate guidance has often resulted in solutions which are, at best, only stop-gap in nature.[10]

There is still doubt and uncertainty concerning the role of trade unionism in the area of public employment, despite the premises and conclusions of the Goldberg Task Force Report and the generally increased acceptance of this kind of unionism as a fact of American life.[11]

This state of affairs, we suggest, presents the colleges and universities of the country with an important challenge. It is clear that, however adequate the general educational background of the public administrator or the leader of a trade union representing public employees, he has to face many problems for which he is less than fully prepared, except as the by-product of experience. If, indeed, there is "chaos," the situation may well become worse unless institutions of higher learning in the country lend their resources to the resolution of the problems which exist.

DIFFERENCES IN PRIVATE AND GOVERNMENTAL SECTORS

A summary review of some of the major differences between labor relations in the private and public sectors will serve to highlight the problem. In substantial measure, these distinctive features derive from the essential differences inherent in the *raison d'être* of private and governmental employment. The private enterprise is established to make a profit, is in competition, derives its funds from private sources, and its managers are answerable primarily to its owners. The public agency exists to provide services, ordinarily without profit as a motive, has little or no competition, is supported

[9] In general, see Arvid Anderson, "Labor Relations in the Public Service," 12 *Labor Law Journal* 1069 (1961).

[10] *Op. cit.*, pp. 71–72.

[11] Concerning the positive role unions can play in the public sector, see for example Robert L. Stutz, "Employee Organizations in the Public Service," Univ. of Connecticut Labor-Management Institute, mimeo, bulletin 6 (1960); and Zander *op. cit.* Note, too, Mayor Robert F. Wagner's "Executive Order on the Conduct of Labor Relations Between the City of New York and Its Employees" (Executive Order 49, March 31, 1958), which states: "Experience has indicated that labor disputes between the City and its employees will be minimized, and that effective operation of the City's affairs in the public interest will be safeguarded, by permitting employees to participate, to the extent allowed by law, through their freely chosen representatives in the determination of the terms and conditions of their employment" (p. 1).

A more limited role is assigned to unionism by others. See Herbert W. Cornell, "Collective Bargaining by Public Employee Groups," 107 *University of Pennsylvania Law Review* 43 (1958); Charles A. Meyer, "The Detroit Story," a paper presented before the Public Pesonnel Association in Denver, Oct. 5, 1961, at pp. 13–15; Foster B. Roser, "Collective Bargaining in Government: A Case Study and Evaluation," also presented before the Denver meeting of the Public Personnel Association, pp. 7–8; and the Task Force Report's comment on the role of unions at p. 15.

(unless it is quasi-proprietary) from public funds, and its administrators are answerable to the public. The sharply contrasting milieux in which employee relations problems arise must inevitably affect their resolution in many ways.

The criteria for determination of wages and working conditions and the limitations upon these determinations, as between private and public employment, obviously differ at least in instances. In private industry, decisions concerning these matters are based upon the financial position of the employer, business forecasts, the expectations of stockholders, wages and working conditions established by competitors, and employee demands and expectations. The area within which decisions are made is bounded by overriding economic realities. Within that area, however, the employer is free to make commitments to employees and their union representative.

In some kinds of public employment, certain of the wage-determining criteria are probably identical with those used in private employment. This is likely to be true of the quasi-proprietary agencies, and of facilities involved in manufacturing and service functions which require extensive use of "blue-collar" employees who must be drawn from the labor market. In addition, it is probably true that the determinations of salary levels under civil service systems take account of rates of pay prevailing for comparative skills in private industry. On the other hand, a significant and often decisive factor in the determination of wages and working conditions for many kinds of public employment, particularly at the state and local levels, is budgetary and involves, directly or indirectly, underlying tax policies and competition among agencies for shares of the tax yield. In describing collective bargaining between the United Federation of Teachers and New York City's Board of Education, Fred M. Hechinger of the *New York Times* has commented:

> In industrial disputes labor confronts a management that knows what its assets are. Teachers bargain with a board of education, which lacks fiscal independence in the form of taxing powers. It is a kind of shadow boxing. At best, they can expect a promise that the board will recommend a certain amount to the city authorities.
>
> ...Realistically, it might make more sense for teachers and school board to bargain on the same side of the table against those who control the budget.[12]

A related theoretical difference between private and public employment derives from the attitude of the employee vis-à-vis the employer. The private employee is conscious of the profit motive underlying his employer's activities, and of the fact that this affects the process of decision making concerning employee wages and other emoluments. The employee tends to think he is competing with the management and the owners of the enterprise in the division of its fruits. The public employee, on the other hand, enters this type of employment realizing that he serves the public interest, not a profit motive. As stated in a document issued by the Michigan Municipal League:

> The responsibilities of government employees are not identical with those of private business. The public employee in accepting public employment accepts an obligation which is distinctly different from that of the employee in private business.[13]

This sense of obligation makes him less "competitive" with those operating the

[12]Sunday, April 15, 1962, E9, col. 2.

[13]Michigan Municipal League, "Public Employer-Employee Relations," adopted by the Board of Trustees, Oct. 14, 1961.

agency than is the case with private employees. These attitudinal differences may be more hypothetical than real, however, and as is suggested later, this is one of the areas which deserves investigation.

Government, with its system of checks and balances, often blurs lines of authority, with resulting confusion and overlap as compared with decision making in private employment. A recommendation or decision made by the supervisor is often subject to revision or veto by any one of a number of additional departments through which it must pass. Foster B. Roser, personnel director of the Philadelphia Civil Service Commission, describes the situation in Philadelphia as follows:

> ...consider the confusion of responsibility for action or determination in the conduct of negotiations in Philadelphia. Any other public jurisdiction will present an almost similar picture. Involved are the Mayor, Personnel Director, Managing Director, Finance Director, City Council–and its appropriations and finance committees, and the Civil Service Commission. Each City official and every City body mentioned has prerogatives which must be recognized and considered by everyone else in the act.[14]

Because of these complexities, "negotiations," where unions are recognized, can take as long as eight months out of each year![15]

LEGAL STANDARDS AND UNIONIZATION

Differences in legal standards relating to unionization and its consequences are likewise significant in the catalog of points of contrast between the labor relations of public and private employment, and constitute one of the major areas of concern and confusion. It was suggested above that, prima facie, the legal standards applicable to public employees are obsolete. At least this question needs to be examined. The Goldberg Task Force Report notes that the "one important statute dealing with the subject [of formal policy to guide "collective dealings" in federal employment], the Lloyd-Lafollete Act of 1912, is half a century old and essentially negative in content."[16] At the state and local levels the relevant "law," for the most part judge-made, rests on hoary doctrines of the common law, and likewise is essentially negative.

In private employment, it is our national policy to recognize the right of employees to organize, to bargain collectively through their union representative, and to take "economic" coercive action (normally by means of the strike and the picket line) in support of legitimate demands upon employers. We compel employers to bargain, and we encourage the use of the "collective bargaining agreement," and grievance and arbitration procedures thereunder—all supported by appropriate legal sanctions—as basic institutions of employer-employee relations.

In public employment, on the other hand, public policy as reflected in the applicable law ("common law," statutory or constitutional law) is almost startling-

[14]Roser, *op. cit.*, p. 7.

[15]Rock, *op. cit.*, p. 73.

[16]*Op. cit.*, p. 4. As the report continues, the act (37 Stat. 55) "simply declares that membership in an organization of postal employees which is not affiliated with any outside organization imposing a duty to engage or assist in a strike against the Government is not grounds for reduction in rank or removal; and that the right to petition Congress may not be denied or interfered with. By extension, it has become the common law of Federal personnel practice that any government employee has the right to join or not to join any organization which does not assert the right to strike against or advocate the overthrow of the Government" (p. 4).

Also see Wilson R. Hart, *Collective Bargaining in the Federal Civil Service*, (New York: Harper & Bros., 1961), pp. 33–34.

ly different.[17] The "organization" of public employees, with the exception of those (such as police) having security functions, has generally been considered lawful. Under traditional doctrine, however, courts have usually upheld, as within the area of legislative and executive authority, prohibitions upon employee membership in a labor organization. There are a few statutes and ordinances which grant a "right of organization" in very general terms, and there is some evidence of a judicial liberalization of the common law, and even toward the view that the "right to organize" has a "First Amendment" constitutional basis.[18] But, even where the "organization" of public employees has been sanctioned or tolerated, the law, except as changed by statute, has usually been regarded as precluding the recognition of trade unions and collective bargaining in the sense in which these terms are generally understood. Moreover, resort to strike action or other forms of economic force by unions which have organized public employees is almost universally considered to be illegal, and this kind of limitation on unionism appears solidly entrenched. Thus, the Taft-Hartley Act specifically prohibits strikes of federal employees,[19] and the Goldberg Task Force Report reaffirms this as an appropriate policy.[20]

The rationales for existing legal limitations on the right of public employees to organize, or to bargain collectively, or to engage in strike or other forms of concerted "economic" action need not be reviewed here. It is sufficient for present purposes to state that they derive from such concepts as the "sovereignty" of government and the doctrine that legislative and executive responsibility may not be "delegated" or relinquished. The "policy" bases for these limitations have been more specific with respect to the use of the strike than with respect to union membership or collective bargaining. One "policy," expressed in a celebrated remark of Calvin Coolidge, stresses the possible danger to public health and safety through strike action.[21] Another, articulated by Franklin D. Roosevelt among others, takes the view that the obligation of continuous and unimpeded service to the public transcends self-interest.[22]

[17]For summaries of the older case law, and of opinions by State Attorneys-General, see Rhyne, *Labor Unions and Municipal Law* (Washington: National Institute of Municipal Officers, 1946), pp. 21–64, 133. See also Smith, *Cases and Materials on Labor Law*, 2d ed. (New York: The Bobbs-Merrill Co., 1953), chap. 8.

[18]For good reviews of legal developments, see the various reports of the American Bar Association Labor Relations Section's Committee on the Law of Government Employee Relations, appearing in the Section's 1959 and 1960 *Proceedings*, and the Report of the Section's Committee on State Labor Legislation, appearing in the Section's 1958 *Proceedings*. For some of the more recent reviews of this matter, see also Anderson, *op. cit.*, Reynolds C. Seitz, "Rights of School Teachers to Engage in Labor Organizational Activities," 44 *Marquette Law Review* 36 (1960); and Brice W. Rhyne, "Legal Aspects of Municipal Employe Labor Relations," 26 *Missouri Municipal Review* 98, 114 (1961).

[19]Section 305, Labor Management Relations Act.

[20]*Op. cit.*, 18 *et passim*.

[21]In connection with the 1919 Boston police strike, then Governor of Massachusetts Coolidge stated, "There is no right to strike against the public safety by anybody, anywhere, at any time" (quoted in Rhyne, *op. cit.*, p. 107)

[22]In a letter of August 16, 1937 to President Steward of the National Federation of Federal Employees, President Roosevelt stated: "All government employees should realize that the process of collective bargaining, as usually understood, cannot be transplanted into the public service. It has its distinct and insurmountable limitations when applied to public personnel management. The very nature and purposes of government make it impossible for administrative officials to represent fully or to bind the employer in mutual discussions with government employee organizations. The employer is the whole people, who speak by means of laws

There has been some movement in the law, as previously noted, in the direction of "liberalization" of the traditional restrictions upon public employees regarding unionism. Some of the developments have been statutory.[23] More important, perhaps, is the fact that, despite the generally negative state of the law, public agencies have exhibited a noticeable tendency to accord de facto recognition of the right of public employees to join unions, and of the propriety of some form (or forms) of collective bargaining or "dealing" with unions representing such employees.[24]

The patterns of recognition and "collective dealing," however, show wide variation, and in general some marked differences as compared with recognition and collective bargaining in the private sector of the economy.[25] It has usually been the practice to limit the scope of "recognition" of the union as representative of only those employees who have joined that union; the principle of "majority" determination and "exclusive bargaining rights" has generally been considered inappropriate.[26] Some agencies have differentiated among various classes or categories of public employees in determining the extent to which to accord rights of unionization. The most typical expression of this is with respect to policemen and firemen, who are often either forbidden to join unions, or permitted to join only "unaffiliated" unions. As a general rule, the "union shop" and the checkoff have been unacceptable. Again speaking generally, even where some form of "collective dealing" has been carried on with unions representing public employees, public agencies have refused to enter into formal agreements with such unions. While grievance procedures have frequently been established, in which employees are accorded union representation, terminal arbitration by an outside "neutral' has usually been rejected.[27]

To most of these generalizations may be cited some exceptions. Of these, the policies of New York City and certain of its subordinate agencies, the cities of Philadelphia and Cincinnati, and, at the federal level, the Tennessee Valley Authority, the Government Printing Office, and the Department of Interior are among the most noteworthy. (For the experience of these municipalities and agencies, see Appendix, page 41.)

In some important respects, the subject-matter area for "collective dealing" differs as between public and private employment. The former is necessarily more restricted in many instances by virtue of legislation which is pre-emptive. The existence of a civil service system, for example, means that wage levels, classification differentials, hiring procedures, discipline and discharge, and perhaps other matters are not within the area of negotiation, at least with the agency doing the employing. A "merit system" prescribed by statute or ordinance will preclude inclusion in a collective agreement of provisions concerning promotions, at least of the kind typical in private collective bargaining. Tenure legislation concerning teachers leaves

enacted by their representatives in Congress. Accordingly, administrative officials and employees alike are governed and guided, and in many cases restricted, by laws which establish policies, procedures or rules in personnel matters." Samuel I. Rosenman (comp.), *The Public Papers and Addresses of Franklin D. Roosevelt,* 1937 volume (New York: The Macmillan Co., 1941), p. 325.

[23]*Supra,* n. 18.

[24]*Ibid.*

[25]*Ibid.*

[26]*Ibid.*

[27]See, in general, Killingsworth, *op. cit.*

little room for bargaining in that area. The existence of retirement and benefit plans, established by statute or ordinance, obviously removes these matters from collective bargaining. Yet there are in most instances some potential areas of negotiation. The Task Force Report makes these observations:

> ...The employer in most parts of the Federal Government cannot negotiate on pay, hours of work, or most fringe benefits. These are established by law.
>
> Generally, negotiations may take place on policies in such areas of employee concern as working conditions, promotion standards, grievance procedures, safety, transfers, demotions, reductions in force, and other matters, consistent with merit system principles....
>
> In this matter...each department and agency...should be left to determine its own practice. As a general rule, however, it may be said that a negotiable matter must be within administrative discretion, that is, it must be within the authority of the manager who is negotiating, and permissible by applicable laws, executive orders, and Administration and agency policy. In general, it will be in the area of working conditions and personnel policies and practices. It should not include matters concerning an agency's mission, its budget, its organization and assignment of personnel, or the technology of performing its work.[28]

A significant problem in the area of public employment, where unions have been accorded some degree of recognition, may derive from the attitudes, approaches, and modes of thought of union representatives who have had their major experience and training in traditional labor-management relations in the private sector. They must feel seriously frustrated upon encountering the problems of representation of public employees. Limited in what they can accomplish through collective bargaining and the grievance procedure, and deprived of the strike weapon, they look to other resources if their representation is to be effective. The obvious direction in which to turn is to "politics." Thus, it is commonplace for unions representing employees at all levels of government to resort to political pressures either in supplementation of or in substitution for collective bargaining, often with distinct success.[29] Whether this aspect of unionism in public employment is "good" or "bad" is debatable and should be one of the areas of investigation and research. In any case, so long as substantial limitations on the opportunities for "normal" industrial-type collective bargaining prevail—and this is likely to be the case indefinitely—it can be anticipated that unions representing public employees will continue, perhaps increasingly, to attempt political solutions. As Eli Rock points out, this tactic makes it comparatively easy, particularly at the state and local levels, for the union leader and

[28] *Op. cit.*, pp. 32–33.

[29] David L. Perlman, "Government Employes and Unions," *The American Federationist*, September 1961, p. 7, points out: "In the federal field, the legislative successes of the AFL-CIO Government Employes' Council and its affiliates are in a class by themselves. Two dramatic examples tell the story: It is almost impossible to get a majority of the House of Representatives to sign a discharge petition to pry a bill out of an unfriendly legislative committee or past a Rules Committee bottleneck. Impossible except for the postal unions which five times in recent years accomplished this feat.

During the eight years of the Eisenhower Administration, only two presidential vetoes were overriden. One of these was a postal pay raise bill."

In the second instance, the presidential veto was overriden despite President Eisenhower's strong words concerning the "intensive and unconcealed political pressures exerted flagrantly and in concert on members of Congress by a number of...employees, particularly their leadership." President Eisenhower, Message to the House vetoing the Federal Employees Pay Raise Bill, June 30, 1960 (quoted in Hart, *op. cit.*, p. 26).

union members to "fall prey to the whole culture of easy pre-election promises or to the risk of retaliation which comes from too close involvement with what may eventually turn out to be the losing side."[30] He adds:

"Yet staying out of politics has its problems, not the least of which is that in an atmosphere of extreme politics, particularly at the local governmental level, the ward committeeman becomes, in effect, the shop steward of his appointees. Under such circumstances the union may encounter resistance and small interest in his organizing efforts."

TEACHING INDUSTRIAL AND LABOR RELATIONS

In the light of these characteristics which differentiate public and private employment—and others which might be cataloged—we pose the question whether the colleges and universities of the country have neglected their responsibilities of research and training in the area of the labor relations of public employment. We think the evidence is that they have.

In this connection, one of the relevant points of inquiry concerns the adequacy of research and training programs conducted by the public agencies, themselves, and unions representing public employees. A number of governmental agencies, particularly at the state and federal levels, offer in-service training programs in considerable variety,[31] and issue publications designed to keep their personnel informed.[32] Illustrative is the work of the United States Civil Service Commission which, through its office of Career Development, attempts to promote and coordinate the training of governmental employees of a number of federal departments and agencies.[33] Although specific training program topics have included "supervisory training," "employee evaluation," and "human relations," it was not until the spring of this year that this program included a course dealing exclusively with "employee-management relations."[34]

We believe, however, that these efforts urgently need supplementation at the college and university level. The research resources thus made available are needed to identify more closely the problems of public labor relations, and to assist in the development of policy in relation to

[30] *Op. cit.*, p. 73.

[31] See, for example, the *State Employee Training Inventory* compiled by the Training Division of the Michigan Civil Service Commission (1961), and the semiannual bulletin of the Office of Career Development of the U.S. Civil Service Commission, *Interagency Training Programs.*

[32] Most often these are intended to keep employees up to date concerning the particular personnel policies of the agency, changes in civil service commission rules and regulations, and adjustments in pay scales. Thus the *Manual of Standard Personnel Practices for the City of Detroit,* first issued by the City's Civil Service Commission in November 1947 has been revised four times since. *Campus Pathways,* the publication for non-academic employees served by the University Civil Service System of Illinois has, since 1954, devoted its fall issue to a handbook on civil service information.

Proceedings of employee training conferences are also published and distributed. Thus, for example, the Michigan Civil Service Commission often publishes the proceedings of its annual Personnel Officers Institute, and distributes the results of the discussions, which have taken place at its management institutes.

[33] See n. 31, *supra.*

[34] Spring 1962 issue, p. 30. The course description states that it "is designed to meet the needs of both personnel and general managers in the Federal government. The course will cover the basic principles of employee-management relations, with special emphasis on: background on American labor movement: the role of organized employee groups: the history of Federal labor practices: current Federal labor policies: individual employee and group consultation: negotiations and agreements."

these problems. The training resources available at the universities can make a valuable contribution to the understanding of the special problems of this area and to the development of suitable skills in meeting them. In both areas—research and training—we suggest that the responsibilities of the universities and colleges are fully as great as in the labor relations of private employment. Existing programs are inadequate.

A necessarily limited review of the announced offerings of colleges and universities reveals a decided dearth of courses dealing exclusively with the problems of labor relations in public employment. Even the Cornell School's program, which is certainly one of the most extensive and specialized in the nation, fails to disclose any such course. We recognize, of course, that some specific aspects of the subject are treated in courses bearing general titles in areas such as political science and labor law, and by Institutes of Public Administration in their courses on public personnel administration. We also realize that course content varies from time to time in ways not revealed in published announcements, and in some instances may focus on problems of public employment. For example, we are aware that a course in the Economics Department at George Washington University, entitled simply "Collective Bargaining," which was offered during the spring semester, 1961–1962, was concerned primarily with "Education for Employee-Management Cooperation in the Federal Service."[35]

It may be contended, of course, that most college students do not anticipate careers in the public service, and that they therefore require no detailed exposure to the problems of public employ-

[35]A memorandum prepared by Professor Thomas W. Holland describing the course, includes the following comments:

"Economics 244 is a course in collective bargaining and over the years I have altered the content each semester in order to keep up with the times. This semester it seemed fitting and proper to focus the course on the new developments in governmental labor relations that will result from the application of the Executive Order of January 17, 1962. This is one of the biggest developments in labor relations in the United States in the past few years and is worthy of study for that reason. And another reason for interest here in Washington is that so many of our students work in the Government or will find jobs there when they leave school. A number of the students in Economics 244 are already involved in the work preparatory to putting the Executive Order into effect and others will be involved later. There is no question about the subject we are concentrating on being alive and timely specialization within the field of labor-management relations.

"Having indicated what our course will focus on, I want to hasten to add that this does not mean that we will not be concerned with the wider field. It would be most unrealistic to study only labor relations as developed and applied in the Federal Service or the other areas of public service. It is true that in several respects governmental labor relations differ substantially from what prevails in industry. But there are numerous features of the governmental systems that tie in with the larger stream. And even where there are distinctive features the student should be able to make comparisons with the larger frame of reference. I venture the prediction that anyone who doesn't have a good comprehension of the general field of American labor relations will soon get lost in trying to understand the new Executive Order and coping with the complexities that will have to be solved in the process of applying it. So, I emphasize that Economics 244 this semester is not as specialized as it might seem at first glance. In studying the new developments we will need always to keep our eye on the history and development of American labor unions, collective bargaining practices in industry and the existing system of public controls."

The memorandum further indicates that Part III of the course was devoted to: "Employee-Management cooperation in the federal service....Problems involved in launching the system established by the Executive Order of January 17, 1962. I. Interpretation of basic documents. II. Employee units and representatives. III. The process and content of consultation and negotiation. IV. The administration of agreements."

ment. We suggest that, even granting the factual premise, this represents too limited a view of the function of higher education. Ought not the student who looks forward to any kind of business or professional career, or even to the career of housewife, be sophisticated to some degree in the increasing problems of government, including those relating to the employment of people? Moreover, we suspect that an increasing number of students, especially at the graduate level, do plan to enter public service, and we would argue that for such students there should be available, and perhaps required, some organized study of the special problems of public employment. This view has the support of the Task Force recommendation that the federal government "encourage the study of the subject [employee-management relations] at colleges and universities preparing students for careers in the public service.[36]

It may well be, however, that the most important contribution which can be made by colleges and universities, in terms of actual training programs, is at the postgraduate or "extension" levels. While existing models of such programs, conducted in cooperation with or for private employer and union groups, may not be entirely suitable, the justification for such programs extends at least equally to programs concerned with public employment. There has already been some experimental work in this direction. Much more, we suggest, is desirable.

Whatever the practical or other limitations pertaining to college and university curricular or other training programs in the problems of public employment, there can be no doubt that the universities can and should make an important research contribution in this area. It takes little imagination to suggest some of the more important potential subjects of needed investigation. Certainly they would include the following:

1. The validity of the hypothesis, commonly assumed to be accurate, that there are significant attitudinal differences between public and private employees; the identification and analysis of any such differences; whether such differences, if they exist, relate to the "personnel policies" of the agency; how such differences, if they exist, affect the interest of the employees in "organizing."

2. A survey of public administrators who are charged with personnel management responsibilities to determine, among other things, to what extent they differ from private employment managers in their view of their relationship to subordinates, how they proceed to determine policies concerning wages and other conditions of employment, their views concerning areas in which they need the assistance of outside research and training programs, and their views concerning the appropriate role of unions in the representation of public employees.

3. A thorough examination and critique of the results of unionization of public employees, including of course, collective bargaining or "dealing," where it exists, "political" activities, impacts on morale in the agency, comparisons of working standards achieved through collective bargaining with those prevailing in comparable agencies which do not recognize or deal with unions—all toward the ultimate objective of attempting a critical appraisal of the role of unionism in public employment. In this connection, a problem of special interest and importance is the examination of the potentiality of the use of final and binding arbitration by "outside" neutrals to resolve some kinds of disputes.

4. A critical reappraisal of "the law" relating to the unionization of public employees; changes which have occurred by statute and otherwise; the validity of those rules which are more restrictive than those standards established gener-

[36] *Op cit.*, p. 54.

ally for private employment; whether, at least for some categories of public employment (e.g., in quasi-proprietary functions) the rules of law should be equated with those prevailing for private employment.

5. In connection with, and contributing to the evaluation of all of the research in all the subject areas listed above, and any others which might be added, a comparative study of the policies and practices of other countries in their differentiation of private and public employment, including their policies concerning unionization.

These suggestions, and our discussion generally, have been directed toward what we have termed "direct employment by a public agency." At the outset, however, we referred also to "types of quasi-public employment," such as by contractors building or operating publicly owned facilities, which, by virtue of their importance and their unique characteristics could appropriately be included in the area of research and training undertaken at the university level. Inclusion of these categories of employment would undoubtedly mean a substantial addition to the list of research areas suggested above, and to the kinds of training programs which are needed.

In conclusion, we express the hope that the specialists in "labor and industrial relations" in the colleges and universities of the country (ideally, in collaboration with the specialists in "public administration") and particularly the various industrial relations schools, "institutes," or "centers" will expand their interest and activity in types of employment—public and quasi-public—which are clearly important to those directly concerned, as well as to the public at large, and are destined, we think, to become more so.

Appendix

New York City

Since 1954, the New York City Transit Authority has entered into written agreements according exclusive representation to unions representing a majority of employees.

"In June 1954, the Transit Authority, after consultation with the various labor organizations representing its employees, decided upon a wage scale and other conditions for its hourly paid employees and agreed to permit those labor organizations which were chosen for such purpose in a secret-ballot election by a majority of the employees in certain designated groupings to act as the exclusive representative of the employees in the presentation of grievances under a specified procedure. These and other related terms were incorporated by the Transit Authority into a document." (Report of the Committee on State Labor Legislation, Proc. Sec. of Lab. Relations Law (A.B.A.) 148 (1958)). The right of the Transit Authority to enter into such written agreement was upheld in Civil Service Forum v. New York City Transit Authority, 4 App. Div. 2d 117 (1957).

In 1954, Mayor Robert F. Wagner issued an interim order (pending formulation of long-term policy by the city's Department of Labor) guaranteeing persons working directly for the city itself the right to organize, and asking that a systematic grievance procedure be established by each department head. During the interim period, dues' checkoff privileges were instituted, and principles were laid down governing meetings with union representatives on city time. In March 1958, Executive Order 49 was promulgated, in accordance with the recommendations made by the Commissioner of Labor's report of June 1957. This order permits the city's employees to organize and bargain collectively, provides for exclusive recognition of the majority representative in appropriate units, and calls for the Commissioner of Labor to determine such units, ordinarily following an election. Such certification is to be in effect for a period of one year without challenge.

A full description of the history and operation of this order will be found in the Report of the Committee on State Labor Legislation, Proc.

Sec. of Lab. Relations Law (ABA), 153 *et seq* (1958), and the 1959 and 1960 Reports of the Committee on Law of Government Employee Relations, Proc. Sec. of Lab Relations Law (ABA), p. 87 *et seq* (1959) and p. 200 *et seq* (1960).

In November 1960, the New York City Board of Education granted its employees "the right of self-organization and of consultation and negotiation through their duly chosen representatives, with provision for exclusive recognition of the majority choice" (Committee on Law of Government Employee Relations, Proc. Sec. of Lab. Relations Law (ABA), 1961 mimeo, p. 3). In January 1961, the New York City Board of Higher Education announced a similar policy concerning its employees. The United Federation of Teachers, a local of the American Federation of Teachers, AFL-CIO, became the exclusive bargaining agent for the city's primary and secondary school teachers in December 1961.

Philadelphia

The City of Philadelphia and American Federation of State, County and Municipal Employees have had some form of collective bargaining since 1939, when the city negotiated an agreement with that union covering employees in the Department of Public Works. By 1958 this relationship had been extended to a point where an agreement was signed between the city and Council 33 of the AFSCME designating that union as the exclusive bargaining agent for all non-uniformed city employees. In 1961 the city and union entered into a modified union shop agreement. "This latest agreement establishes three categories of city employees—12,000 who must join the union as a condition of employment (10,500 of these were already members of the union at the time the agreement became effective), 4,800 for whom membership is voluntary, and 1,200 for whom union membership is prohibited" (Zander, *op. cit.* p. 10). In general, see Report of the Committee on Law of Government Employee Relations, Proc. Sec. of Lab. Relations Law (ABA), p. 90 *et seq.* (1959). The 1958 Agreement between the city and the union is reprinted in Cornell, *op. cit.*, p. 58 *et seq.*

Cincinnati

In 1960, following a number of years of limited collective bargaining, the Cincinnati City Council passed a resolution stating that it was their policy to " 'bargain collectively with city employees, their unions, or other authorized representatives, on all matters pertaining to wages and working conditions before any final determination is made by City Council.' The declared policy is made applicable to representatives which can establish that they represent a majority of employees 'in a classification or other bargaining unit as determined by the City Manager.'

"The resolution further authorizes the City Manager and the various independent boards and commissions to enter into 'written memoranda of understanding' for fixed periods of time upon the request of any labor organization representing a majority in an appropriate unit, provided that such memoranda expressly exclude from the unit (1) employees represented by other recognized organizations, (2) probationary employees, (3) those in the Department of Personnel and confidential secretaries to department and division heads, and (4) employees above 'the first level' of supervision, or 'any employee whose responsibilities include regularly assisting in the formulation of policies in the field of employee relations.'

"In the event of an impasse in bargaining on wages and working conditions, provision is made for the establishment of a board of review, by designation of both sides, to hear the positions of the parties and guide the negotiations 'to a satisfactory conclusion. . . .'

"The City of Cincinnati has recognized and dealt with organizations representing, respectively, police, firemen, various craft groups, and the remaining categories of employees. Of these, District Council 51 of American Federation of State, County, and Municipal Employees, AFL-CIO, representing the vast city-wide majority of employees in the non-uniformed and non-craft categories, sought to negotiate for a written agreement under the policy enunciated in the Council resolution and the statement of the City Manager. Such an agreement, signed by representatives for both sides, was entered into between the City and the union for a period from April 13, 1960, to December 31, 1960, and thereafter from year to year unless 60 days' notice of termination is given." Report of the Committee on Law of Government Employee Relations, Proc. Sec. of Lab. Relations Law (ABA), pp. 199–200 (1960).

Also see Report of the Committee on Law of Government Employee Relations, Proc. Sec. of Lab. Relations Law (ABA), p. 89 *et seq.* (1959), and Zander, *op. cit.*

The Tennessee Valley Authority

The Tennessee Valley Authority was an early advocate of collective bargaining in the public service. In 1935, the Authority issued an Employee Relationship Policy, giving its employees the right to organize and to designate their representatives for collective bargaining purposes. The majority rule and appropriate unit principles were also enunciated. By 1940, the first written contract had been negotiated, be-

tween the Tennessee Valley Trades and Labor Council, composed of about a dozen craft unions, and the T.V.A. The grievance procedure provision provides, as a terminal step, for referral to an impartial referee. (Hart, *op. cit.*, notes at p. 105 that "in the first thirteen years of operation under these collective agreements, only two grievances were taken to arbitration.")

"With the exception of union security (i.e., the union shop), which the Council has repeatedly demanded and which TVA has maintained with equal persistence that it is prohibited by law from granting, the subject matter of collective bargaining in TVA is even broader than that which normally prevails in private industry.

'The areas in which labor now shares responsibility with TVA management cover much ground which is customarily thought of as "management's prerogative," in addition to the ground which has traditionally come to be accepted as within the sphere of union responsibility. The latter include the determination of wages, the settlement of jurisdictional questions, and the handling of grievances. The former, in which TVA is in more of a pioneering position, includes job training, job classification, and the joint cooperative program to promote efficiency, morale, health, and safety.' " (Hart, *op. cit.*, pp. 102–103, citing Harry L. Case, *Personnel Policy in a Public Agency—The TVA Experience* (New York: Harper & Bros., 1955), p. 49.)

Once a contract is approved, it is fully binding. "The directors of TVA, who constitute its governing body subordinate only to the President of the United States, do not reserve the right unilaterally to modify, cancel, or supersede any provisions of an approved agreement. Presumably only an act of Congress or an executive order of the President could have that effect. In this respect the TVA contracts have more binding effect than those authorized by the Secretary of the Interior which are binding upon all subordinate officials of the department, but not upon the Secretary himself. Whether the TVA contracts constitute an illegal delegation of legislative authority is a question which has never been submitted for judicial decision. In view of the years of mutually satisfactory operation under these contracts, moreover, that question can probably now be regarded, for all practical purposes, as moot." (Hart, *op. cit.*, pp. 103–104.)

The Government Printing Office

"The Government Printing Office is exceptional in that it has from its inception as a government agency, pursued a non-conventional approach to employee-management relations. The Printing Office was originally established as a private enterprise and later purchased, as a going concern, by the federal government. At the time of the take-over it was being operated as a closed shop. Every employee had to belong to one of the printers' unions. When a vacancy occurred the employer called the appropriate union to obtain a replacement. The printers' unions are among the oldest, strongest, and most tightly controlled in the country. In most sections of the country the printing industry for years has operated with both closed shops and closed unions. Some printers' unions have been so tightly closed that only legitimate sons of union members were eligible to become members. Faced with this situation, the Public Printer honored the agreements which the unions had with the former owners. Incredible as it may appear today, the Government Printing Office operated for more than forty years—from 1861 to 1903—under a strict closed-shop agreement.

"In a closed shop the employer is compelled to fire any employee who is expelled by his union. When one employee of the Printing Office was removed for that reason he appealed to the Civil Service Commission. The case ultimately reached President Theodore Roosevelt, who abruptly put an end to the closed shop in the Government Printing Office. Notwithstanding this setback to the unions, the Printing Office remained unionized. In 1924 the Congress enacted the Kiess Act, a law strongly backed by the unions, which provided for a unique but very genuine form of collective bargaining between the Public Printer and the unions representing the employees of the Government Printing Office.

> " '. . . the rates of wages, including compensation for night and overtime work . . . shall be determined by a conference between the Public Printer and a committee selected by the trades affected, and the rates and compensation so agreed upon shall become effective upon approval by the Joint Committee on Printing; if the Public Printer and the committee representing any trade fail to agree as to wages, salaries, and compensation either party is hereby granted the right of appeal to the Joint Committee on Printing, and the decision of said committee shall be final. . . ' [44 USC §40 (1952)].

"Thus eleven years before the Wagner Act Congress decreed that, at least for one important federal agency, collective bargaining was proper and in no way contrary to public policy. In fact, it provided that disputes between the responsible administrator and the unions concerned would be settled by arbitration, with a Joint Committee of the Congress acting as the arbitrator!" (Hart, *op. cit.*, pp. 85–87.)

The Department of the Interior

"There are now twenty-four collective bargaining agreements in the Department, covering workers from the Southwestern states to Alaska. Thirty-five hundred of its employees, exempted from the Classification Act of 1949 as members of 'recognized trades or crafts' or because they are employees of The Alaska Railroad (a bureau of this Department) and known as 'ungraded' employees, are covered by these agreements.

"Six bureaus in the Department are parties to collective agreements. Some of the agreements are with individual craft unions while others are with councils of unions. The same railway brotherhoods which represent employees on privately-owned railroads are signatory to similar agreements with The Alaska Railroad. The American Federation of Government Employees represents certain groups of employees on The Railroad. At the Bonneville Power Administration the AFGE and the Amalgamated Lithographers of America each represent separate groups of reproduction plant workers. The Bureau of Mines has entered into three industrial-type agreements at its helium activity with the Oil, Chemical & Atomic Workers covering all workers in four plants. Both the Bureau of Indian Affairs and the Southwestern Power Administration, as well as several Regions and Projects in the Bureau of Reclamation, have agreements with the International Brotherhood of Electrical Workers. Four agreements in the Department have been signed by councils of craft unions—groups formed especially to deal with the Federal Government and representing all craft workers at a project. In all, twenty-three international unions are signatories to agreements with Interior" (Newell B. Terry, "Collective Bargaining in the U.S. Department of the Interior," 22 *Public Administration Review* 19 (1962), p. 19.)

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36. **Multiemployer Bargaining;** by Charles M. Rehmus. (1965)
37. **Some Conceptual and Methodological Considerations in the Study of Job Dislocation;** by Louis A. Ferman. (1965)

CONFERENCE PROCEEDINGS

Critical Issues Affecting Labor-Management Relations. Discussions of: Public Measures to Increase Jobs and Protect Income; Impact of Job Security on Collective Bargaining; Collective Bargaining Approaches to Job Security; Work Rules and Practices; Collective Bargaining—New Approaches to the Problem of Achieving Agreement. (1962) ($1.00)

The Labor Market and Social Security. Proceedings of the Fourth Annual Social Security Conference. Available through The W. E. Upjohn Institute for Employment Research, 709 South Westnedge Avenue, Kalamazoo, Michigan. (1962) (No charge)

The Worker in the New Industrial Environment. Report of a seminar jointly sponsored by the *Institute of Labor and Industrial Relations* and the *Foundation for Research on Human Behavior.* Available from the Foundation for Research on Human Behavior, 1141 East Catherine Street, Ann Arbor, Michigan. (1962) ($3.00)

RESEARCH REPORTS

Proving Your Arbitration Case; Boaz Siegel. A pamphlet on the application of rules of evidence to labor arbitration cases—available through Bureau of National Affairs, Washington, D.C. (1961) (Single copies, $1.00)

Essays on Industrial Relations Research—Problems and Prospects. A series of lectures designed to stimulate research in industrial relations. Authors include: Robert L. Aronson, Albert Rees, Joel Seidman, George Seltzer, Gerald G. Somers, and William F. Whyte. (1961) ($1.50)

Collective Bargaining in the Steel Industry: Pattern Setter or Pattern Follower? Harold M. Levinson. An evaluation of the role which has been played by collective bargaining in the steel industry in the development of the wage-fringe trends of the postwar period. (1962) ($1.00)

Death of a Newspaper: The Story of the DETROIT TIMES—A Study of Job Dislocation Among Newspaper Workers in a Depressed Labor Market; Louis A. Ferman. Available through The W. E. Upjohn Institute for Employment Research, 709 South Westnedge Avenue, Kalamazoo, Michigan. (1963) (No charge)

The Impact of Technological Change; William Haber, Louis A. Ferman, James R. Hudson. This report is designed to review what has been learned from the earlier studies of technological change and it aims to summarize and appraise the findings of specific research inquiries which have been made into the adjustment to technological change during the past 30 years. It is hoped it will provide some guide in dealing with the problems of adjustment to current technological change. Available through The W. E. Upjohn Institute for Employment Research, 709 South Westnedge Avenue, Kalamazoo, Michigan. (1963) (No charge)

WRITE TO: Publications Office
Institute of Labor and Industrial Relations
Museums Annex
Ann Arbor, Michigan 48104

*A list of past publications still available can be had upon request.

TINGS.

OW TO REACH
E UNION MEMBER

HROUGH
OMMITTEEMEN.

N THE JOB.

T THEIR HOMES.

How to Reach the Union Member

These suggestions on how to do a better job of reaching the individual union member and building increased participation in local union activities come from many sources. Original work was done by the Southern School for Workers and the Education Department of the United Rubber Workers Union. The pamphlet was published in the October and November, 1958 issues of EDUCATION NEWS AND VIEWS.

One of the toughest problems facing union leadership today is how to reach all the members to explain the message and program of the union, to arouse loyalty to the union and build participation in its activities.

You can try to reach the rank and file membership of your local union in four ways: at the monthly meeting of the local; through the stewards or committeemen; on the job at the plant and in their homes and communities.

Take a look at each of these four methods. See their advantages and disadvantages and think how they can be used effectively in your union.

Many local unions, of course, are already using some of the techniques described in this article. All of them are drawn from actual experiences. Resourceful union leaders will use these suggestions, adapt them to their local situations and probably come up with new—unique and effective—methods of helping the millions of local union members participate more effectively in making the decisions of the labor movement.

1 Local Union Meetings

Good, interesting, well-run local union meetings are important in keeping the membership interested in attending, and in getting more members to attend and participate.

The monthly meeting of your local union gives you a first-rate opportunity to discuss union problems and programs regularly, face to face, with the members who attend. The great disadvantage of this method is that only a handful of members attend the average meeting.

Think about your own union and all of its members from the card-carriers to the most active officers. How can you get more people to come to meetings? How can the union meeting build loyalty to the union and an understanding of the union's program for those who do attend?

Why Do People Stay Away From Meetings?

Are your meetings long and dull, often taken up with individual grievances? Is the business of the meeting poorly organized and haphazardly conducted, with no control by the chairman? Is the meeting monopolized by the Chairman and one or two officers, with little or no participation by the membership? How about your meeting night; does it conflict with other important area—community activities such as the PTA, important church functions and popular bowling leagues. How many of your members want to be sure to see the Wednesday night fights on TV?

Plan Your Meeting Carefully

Plan your meeting for speed and drama. Some or all of the suggestions that follow will help you keep the business of the meeting moving. This doesn't mean you have to use steam-roller tactics to get through the union business. Don't get bogged down in details that should be handled personally or by union committees. More members will come to union meetings, if they can expect to get information, interested discussions, and, when possible, excitement, from the meetings.

For example, if your union has just won a pension plan, have a discussion of the new plan, how it works, what the benefits are, the effect of lay-offs on benefits, members' responsibilities, etc.

Don't dodge controversy. If there's an issue that affects the union, it belongs on the union agenda. When handled properly, discussion of controversial issues can build the union.

Play down the role of chairman, letting others from the floor carry the ball. The officers should be familiar with standard rules for conducting meetings. Several unions have published easy-to-use pamphlets that will help you.

The agenda (a list of everything to be done at a meeting) should be worked out in detail before each meeting.

Write down each item of business and the name of the person who will introduce it. Include the routine matters (reading of minutes, etc.) so that you don't forget any of it. Who will read communications and where should they be referred? Who is scheduled to make reports (which committees, which delegates to conventions or other meetings)? What is coming up under old and new business? Check ahead of time with officers and committee chairmen to find out if they have items to be included on the agenda.

Talk (or send a postcard) to all persons listed on your agenda, asking them to be prepared and to be brief.

Avoid long discussions of small details. Refer details to committees or individuals. Do not discuss individual grievances on the floor.

Look over the correspondence before the meeting. Weed out unnecessary letters. Read important sections only. And read clearly. Correspondence is usually read by the secretary, but, when possible, some letters should be read by other members, such as the committee chairmen involved, in order to get more people active in the meeting and give it variety.

Set a time limit on everyone who speaks at a meeting to eliminate long-winded talkers. Try two or three minutes each, certainly not more than five minutes per person. Enforce the parliamentary rule that no one speaks twice on a subject until all others have had a chance to speak.

The Arrangement of the Meeting Room Is Important

Arrange the meeting room so that everyone sits together, not spread all over the hall. Put away extra chairs; place a desk or table in front as close to the people as possible. Avoid holding small meetings in a large hall. For a small meeting try arranging chairs in a circle or around a table. Vary the seating arrangements from meeting to meeting.

No matter how good your program is, it'll be a dud if people can't hear what's going on. Make sure everyone who speaks can be heard in every part of the hall. Rent amplifying equipment, if necessary.

The chairman should stand when conducting the meeting.

The same rule applies to the secretary when reading minutes, correspondence, etc., and to everyone who addresses the meeting, whether making reports, speaking from the floor, etc. All reports of delegates or committees should be made from the front of the room.

Take a look at your union hall. Does it need painting? Decorating? Some union posters? Better lighting? Cleaner rest rooms? How long has it been since it was swept? Are old pamphlets, paper, and dirty ashtrays scattered around?

Are new pamphlets where members can get them? Do you have a bulletin board with interesting items affecting the union? Have you tried playing union or popular records before and after the meeting?

Publicize Your Union Meeting

Do all the members know where and when meetings are held? Some of the following suggestions may help in your local. You'll be able to think of other ways to publicize your meetings, ways that will be especially suited to your union, your town. Above all, vary your publicity from meeting to meeting.

Personal contact between stewards and members is probably the most effective way to publicize your meetings. If meetings are worth attending, the steward will try to get people to be there. Make sure all the stewards know the important items on the program for each meeting.

Try an occasional letter or postcard direct to the worker's home reminding him of a meeting and the subject to be discussed. At least occasionally, send a postcard or letter to all stewards and officers, urging them to get other members out to a meeting.

An advertisement in the town paper or a few radio spots advertising an important meeting and its program will work in small towns.

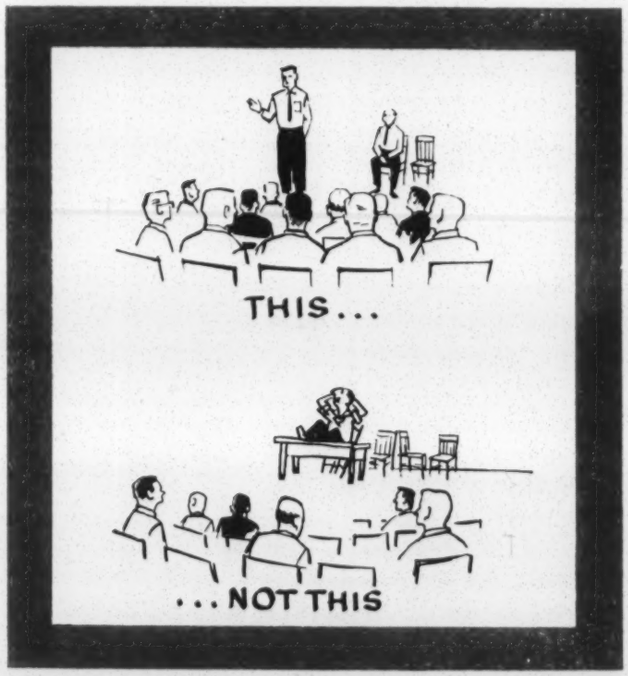
Do you have shop bulletin boards? If so, work up colorful notices advertising your meetings. Use your imagination to get attention. Remember that the typewritten notice has gone the way of the horse and buggy. Some internationals have special posters for advertising union meetings.

In all publicity, play up the subject matter of a meeting, so that people will not want to miss it. But don't oversell a meeting. If you lead people to expect more than they're going to get, they won't come again.

Vary Your Program

Most meetings need more than good discussion and action on routine union business. People want to feel they have gotten something out of the meeting—new ideas, new information. Don't just tack a speech at the end of a long, dull business meeting. First follow the suggestions to streamline union business, then try some of the following suggestions:

Invite a guest speaker to talk on a subject that will



BENEFITS WON BY LOCAL UNION 000, UW, AFL-CIO

Here are the benefits that have been won by Local 000 for all workers in the _____Company since the local was organized in _____.

1. Organized method of taking up grievances and complaints.
2. Protection of a union contract with numerous guarantees and with choice of arbitration if company refuses to follow contract.
3. Six wage increases totaling 69¢ per hour.
4. Vacations with pay. 1 week for one year's service, 2 weeks for five years' service and 3 weeks for 15 years' service.
5. Six paid holidays.
6. Pension plan. Guaranteed minimum of $100 including social security.
7. Health benefits for yourself and family.
8. Thousands of individual and group grievances settled satisfactorily for the membership.

Attend regular union meetings at union hall_____ street. (4th Monday of every month) at _____p.m.

NEW MEMBERS WILL FEEL differently toward your local union if you give them a background on the history of the local and the gains which the local union has made for the membership. The leaflet to the left shows eight gains made by a local union.

DOES THE HISTORY OF your local union show equivalent gains? Have you prepared an attractive leaflet for your new members or planned an anniversary program on the "birthday" of your union in which you dramatize these gains?

Date_____

Dear Brother _____:

Welcome and congratulations on becoming a member of Local 000 of the United Workers, AFL-CIO.

We're glad to have you join us in one of the oldest (and one of the best!) unions in the AFL-CIO. Local 000 includes all the workers in the _____Company. It is dedicated to representing you and your fellow workers, to see that you get fair treatment on the job.

You are now protected by a union contract which has been developed over many years, so that it gives real protection to the workers. The benefits which your union has won for its members are listed on the attached leaflet. Read this carefully.

As you work on your job, you may have complaints about unfair treatment or mistakes that the company may make in regard to your job or pay. You are entitled to see your shop steward who is experienced in handling such cases and will take them up for you as provided by the union's contract with the company. Your steward is _____; he works in Department_____.

Fraternally yours,

John Q. Unionman
President, Local 000
United Workers, AFL-CIO

TO THE RIGHT IS A SAMPLE letter for new members which local unions could easily prepare. Many, of course, do. In this case, the letter stresses the service which the local provides for its members and indicates who the shop steward is as well as emphasizing the role this steward will play in representing the new member with management.

SOME INTERNATIONAL unions like the Building Service Employees Union and the Rubber Workers Union have prepared national leaflets which can accompany a local union letter welcoming the new member.

interest your members: something on the union, the town you live in, the possibilities are endless. When you invite a speaker, give him a realistic estimate of the number of people who'll attend and the time available to him. Explain ahead of time, so the speaker can plan his talk accordingly, that you want a short talk, with plenty of time for questions from the floor. And enforce the time limit on the talk.

Have the members themselves do the talking at some meetings. Schedule short talks on subjects such as "How Dues Are Spent," "How to Make a Motion," or a short review of a union pamphlet.

Union movies come in many sizes on many subjects. If you can get projection equipment, rent a movie from time to time. Write to the AFL-CIO Film Division for a catalogue of rental films.

You've probably already tried refreshments or entertainment and found that, alone, they don't bring many people to meetings. Don't try them at every meeting; you can't compete with TV in the living room and TV snacks in the kitchen. But now and then they vary the routine of the meeting, especially if you're opening the meeting to families or the public.

(For more details about union meetings see AFL-CIO Publication No. 81, HOW TO RUN A UNION MEETING. 20¢ a copy; 10 to 99 copies, 17¢ each.)

2 Reach the Membership through the union stewards or committeemen

"Stewards," "shop chairmen" or "committeemen" are the key to building a strong local union.

Whether your union calls them "stewards," "shop chairmen," "committeemen," or some other title, these are the people who can be most helpful in reaching the membership. There are two big advantages to this method: The stewards are a small group, relatively easy for the union to keep in touch with. They are also the key people in the union; they blanket the shop in all departments, and they are in daily touch with the members.

The problem is how to make the most effective use of the shop stewards, without working them to death.

Train Stewards to Do Their Job

Both old and new stewards should attend steward training sessions. You can hold classes once a week, have a weekend conference, or run classes in connection with your regular stewards' meetings. Help them understand the contract, teach them how to handle grievances, give them basic information about the union.

When a new steward takes over, the union officers should take time to show him the ropes and go over the contract and the grievance procedure with him. Make a special effort to help him until he can take a steward training course.

(A *Teaching Guide* for a six-session stewards' training course is available from the AFL-CIO Education Department. It is based on the new AFL-CIO stewards manual and sells for $1.00.)

Hold Regular Stewards' Meetings

Monthly stewards' meetings give stewards a chance to discuss grievance problems and to learn more about the union. There are many ways to run these meetings. You can plan a detailed discussion of one section of the contract at each meeting. Or invite a guest speaker on labor laws, political action, or some other union issue. At another meeting schedule an informal talk on some part of the union's program. For example, on the steward's responsibility in getting members out to meetings, first try an impromptu skit of a steward telling a worker about the next union meeting and urging him to come out. That should bring a reaction from the stewards present, who can exchange ideas on how they'd handle the same situation.

Give the Steward the Prestige He Deserves

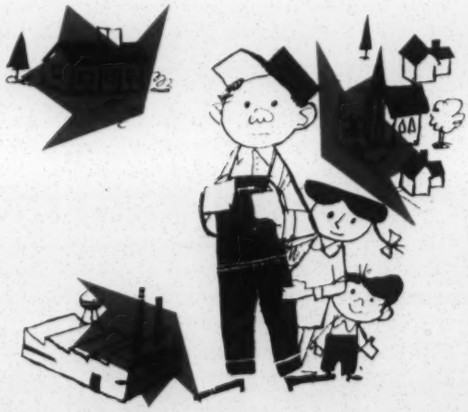
If you're going to keep stewards on the job and get them to attend training meetings, you've got to make the job desirable, give it prestige. Have you tried these suggestions in your union?

Hold an annual banquet for stewards and their wives, free of charge, as an expression of the union's gratitude.

If your local union has a newspaper, by all means give the stewards credit by name for grievances they have successfully processed, etc. Publish feature stories on your stewards and the jobs they're doing.

Where possible, bring the steward involved in at higher grievance steps and top management meetings. Let him participate.

Send press releases to your community newspapers when stewards are elected; give their names and union responsibilities. Most papers (except in large cities) will print them.



TEN YEARS OLD

Yes, that's how old your United Workers Local 000, AFL-CIO, is.

It was ten years ago last week that we signed our first union contract. It didn't have much in it. But it was a start. It gave us protection against unjust discharge, against favoritism and speed-up. It gave us an organized procedure to settle grievances. It gave us seniority protection.

Each new contract was an improvement. We won wage increases, holidays and vacations with pay, reporting time pay, other improvements. In recent years we won pension and health insurance agreements.

Since our last contract was signed your union has settled satisfactorily the following grievances:

4 discharge cases
25 pay adjustment cases
35 seniority cases dealing with job transfers and promotions
60 miscellaneous grievances
43 cases on speed-up, work-load and rate cutting

plus hundreds of other grievances settled immediately between your steward and foreman and not reported in the records.

Further improvements, benefits, grievance settlements -- a better job -- are only possible through your help and support. A strong union brings better conditions. Let's strengthen the union. Let's improve the present contract by working and sticking together!

Attend the 10th Anniversary Celebration! Sunday, at 2 p.m.

at the Union Hall.

Hear one of the Old Timers tell how we first organized.

Refreshments. You'll be out by 4 p.m. No foolin!

NOT ONLY are golden wedding anniversaries important, but so is your union's 10th Anniversary. One way to dramatize this history, and perhaps get a story in the local press and even a radio program, is to plan an anniversary meeting.

To the left is a leaflet publicizing a 10th anniversary meeting of a local union and indicating some of the accomplishments of the union since the "good old days" BU (before unions). Many of your newer members will understand the reasons for belonging to a union if they attend such a meeting and hear short, interesting presentations on what the union has accomplished. A ten-minute speech by one of the old timers still in the shop on what conditions were like before the union was organized will be quite educational.

The International Association of Machinists nationally just finished celebrating its 70th Anniversary and worked out a plan whereby all local lodges ran a meeting on the 70th Anniversary of the Union and invited community leaders into the Anniversary meeting.

3 Reach the membership on the job

Many local unions do a good job of contacting members while they are at work in the plant. Plan ways to use this opportunity intelligently.

The advantage of this method of reaching the rank and file is that everyone is there, no special trip is necessary. This is one of the cheapest ways to reach the largest number of workers. The disadvantage is that people are working and there is no chance for lengthy discussion as there is at membership meetings. Here are a few ideas; there are many others.

Distribute Leaflets at the Shop Gate

Pick an important issue for such distribution, and make a short and snappy mimeographed leaflet. Leaflets are particularly useful where the local has no regular newspaper. For example, make a leaflet to announce details of a wage increase or to keep the members up to date on contract negotiations, or to let them know how your Congressman and Senators voted on a particular bill.

Distribute Leaflets Through the Shop Stewards

Some workers are more likely to read a leaflet if their own shop steward hands it to them. This is a particularly useful method for announcing special meetings and other events.

Bull Sessions in the Plant, at Lunch Time, in the Locker Room

Raise a question of a story in the *AFL-CIO News* or your local's paper, or refer to some union leaflet or other piece of literature that interests you and is controversial. Talk about wage increases, new contract, prices. Tie the discussion in with your union and its program.

Use Union Bulletin Boards in the Plant Effectively

Keep your bulletin board up-to-date. Try to make it colorful and interesting as well as informative.

Use it for meeting announcements, stewards' names, anything that can be placed on the board. Clip news items and cartoons that will interest members from union or other papers, from magazines, etc.

Order bulletin board posters from the AFL-CIO which appear regularly on current topics or labor problems. (8½ by 11 inches in two colors. 5¢ each; 100 for $3.)

Special Department Meetings Right After Work

Where there is a hot issue in a department, call a quickie department meeting at the union hall. People will get involved who have never been to a meeting.

4 Reaching the membership at their homes, in the community

It is important to work with union members where they live! They are "opinion molders" on many issues which concern the welfare of the people of the community.

Every union member is also a member of the community. Sometimes he is easier to reach at home than in the plant or union hall or through the stewards. Some unions are producing television shows and radio programs to discuss controversial issues. These programs will take the AFL-CIO's position on important issues to union members who never come to the union hall. These ideas may help you:

Use the Mails

Occasional, even regular, use of the mails, if possible, will reach all members and their families right at home.

This is a sure fire way of getting into the home, although there is no guarantee that the material will be read. Also, it can be expensive, particularly for large locals which would need addressing equipment. Here are a few ideas for mailings to union members.

A must mailing is a letter to all new members welcoming them into the union (see sample letter on page 4). also a letter to workers retiring on a union pension plan.

The need to get important information to all members quickly might be the occasion for a letter, perhaps with a leaflet attached. Examples are strike information, a dues increase, a new contract, negotiations, or a special legislative drive.

A regular local union newspaper can be very effective.

One way to distribute it is to mail it to members' homes. Cover local news, local names and events; keep it easy to read, not too heavy or tightly packed. You might start with a one or two-page mimeographed paper.

Use Community News Sources

Appoint or elect an information committee with the willingness and authority to establish and maintain contacts with the newspapers, radio and TV stations. The committee must be willing and able to prepare useable news releases.

Have them get acquainted with reporters and news editors of newspapers and radio/TV stations. (For more detailed suggestions, see "Get Your UNION MESSAGE to the Public", pp. 6-7, May 1958, AFL-CIO Education News and Views.)

Normal union activity can get the name of the union in the newspapers at least twenty-five times a year. Send news releases to community newspapers to report any out of the ordinary activities. Conventions, special meetings, contract negotiations, delegates sent to meetings, conferences, and schools, the election of officers, entertainments, and other activities are all news for your home-town papers.

Send news releases about activities of your local union to your local radio and TV stations whenever you send them to the newspapers.

Make sure your members know about both radio and TV programs featuring union speakers. The AFL-CIO sponsors two nationally-known radio commentators, John W. Vandercook and Edward P. Morgan. Both are on the ABC Network. UAW commentator Guy Nunn appears on thirty-five stations on a special morning show aimed at car radios. Other radio and TV programs are available from time to time.

The AFL-CIO TV series, "Americans at Work" offers fifty-two 15-minute shows to TV stations that agree to run the series on public service time.

The AFL-CIO taped radio programs, "As We See It" or "Washington Reports" offer listeners interviews with union leaders, or members of the Congress.

If these programs are not heard or seen locally, your information committee should contact the program chairman of radio stations and the TV channels in the area.

If the program is carried locally, union members should be informed through union publications, hand-

Local 000, United Workers, AFL-CIO
1957 Main Street, Uniontown, USA. Telephone: 7777
President: John Q. Unionman
Home Phone: 0000
For Immediate Release

UNIONTOWN MAN TO ATTEND NATIONWIDE MEETING

Joe E. Contract, chief steward of Uniontown Local 000 of the United Workers, AFL-CIO, leaves today for Washington, D. C., to attend a nationwide conference of United Workers stewards at the Statler Hotel. The conference will run from (date) _____.

Contract was elected by the ten stewards of Local 000 to represent their local at the meetings called to acquaint United Workers stewards with problems of administering the union contracts under changing conditions in the industry.

While in Washington, Contract will visit Senators _____ and _____ and Representative _____ on Capitol Hill to tell them how workers in Uniontown feel about some of the bills now before Congress.

The United Workers have called this meeting of stewards because they recognize that the steward is the key man in every union. He's the man who is in daily contact with all the workers in his department. Knowing his union and its members as he does, he is especially well-equipped to discuss local problems and to use what he learns in Washington for the benefit of the union and community on his return home.

Speakers at the meeting in Washington, to be attended by Joe Contract, will be President Ralph Burns of the United Workers, AFL-CIO, who will speak on "The Challenge Confronting the Labor Movement Today" and E. E. Blough, consultant on problems of automation. Blough will discuss at the meeting some of the problems facing the United Workers Union in adapting seniority clauses to new situations created by the growth of automation.

MANY TIMES local unions fail to publicize activities which would give the general public a better understanding of unions. Many local unions, of course, send delegates to legislative conferences, to summer schools, to state legislative meetings and to city or county meetings on improving the public schools.

The sample press release to the left shows how to publicize the activity of a local union. Notice the double spaced typing which editors appreciate. Also at the top, the name of the president of the local, his office and home phone numbers, so that the newspaper reporter can follow up on the story in case he has any questions.

News stories indicating the amount of money raised by union members in a particular shop for the Community Chest will give the general public a broader understanding of union activities.

The May, 1958, issue of EDUCATION NEWS AND VIEWS contained an article entitled "Get Your Union Message to the Public," which outlined seven ways in which the union could work on this problem. Write to the AFL-CIO Department of Education for a copy.

bills, bulletin boards, and at local union meetings so that they, their families, and friends can see or listen.

Activity of union representatives in community organizations (through service on committees, through donations, through participation in various community projects) helps get the name and program of the union before non-active union members and the public. On community chest drives, etc., make sure your union gets some mention and that all the credit doesn't go to the employer or company where you work.

* * *

If you use the suggestions in this article, you will make it possible for local union members to participate in a wide variety of union programs. Many of the projects which you carry out in your local union will not only build stronger unions, but will give the general public a better understanding of the need for strong unions.

AFL-CIO Pamphlet No. 91

Reprinted from October and November 1958, *AFL-CIO Education News and Views*. For additional copies, write to AFL-CIO Education Department, 815 Sixteenth Street, N.W., Washington 6, D. C. Single copy, free; 2-99 copies, 5¢ each; 100 or more, 3¢ each.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

George Meany, *President* Wm. F. Schnitzler, *Secretary-Treasurer*

17 17

PRINTED IN U.S.A.

Why Should a Grievance Procedure Be Formalized?

Read the following statement carefully

One, it reduces the possibility of conflicting decision. In a large plant with many supervisors and stewards such conflicts would occur frequently if written records and regular channels of appeal were not provided.

Two, formal procedure eliminates the possibility of people making decisions without the proper authority. This sometimes happened in the past and many stewards and foremen have been embarrassed at a calling-down by their superiors for making decisions for which they had no authority. Under the formal procedure, each adjuster knows exactly how far and over how many people his authority extends. First-line supervisors and stewards know that decisions involving company or union policy must be reserved for higher officials.

Three, arguments over facts are greatly reduced by the use of the written grievance form. If a case is appealed up the ladder, many different people must handle it. Only a written statement signed by each person involved can avoid future arguments as to what actually took place. It also prevents any adjuster--either for the union or for management--from denying his action. In this way much valuable time will be saved in committee meetings and at all higher levels of appeal.

Four, formal procedure reduces the number of unfounded grievances. When the worker has to write out a complaint on a special form and sign his name to it, the number of trivial complaints turned in to the union are usually sharply reduced. It protects the steward from the kind of worker who kicks and then backs down when his grievance is actually presented to the foreman.

Relate to fear problem?

Five, orderly procedure helps to build mutual confidence in a very important way. By making all decisions open and on the record, the possibility of illegitimate understandings is largely eliminated. Charges of favoritism

or dishonesty which might be made against either steward or foreman are avoided, and any grounds for suspicion, real or imaginary, are eliminated.

Six, records of all adjusted grievances are ofen kept on file at the union office and management's industrial relations office. Such a record provides both sides with an over-all picture of the day-to-day working of the contract, with special emphasis on any particular sore spots. This information may prove of great value when renewal of the contract comes up.

LABOR MONOGRAPH NO. 1

a Contemporary Analysis of a Labor Union

GLASS
BOTTLE BLOWERS
ASSOCIATION
of the United States
and Canada

AFL-CIO

DEVELOPMENT
STRUCTURE
FUNCTIONS

by

MILES E. HOFFMAN

Department of Economics
and Management

TEMPLE UNIVERSITY
Philadelphia, Pa.

INSTITUTE OF INDUSTRIAL RELATIONS

WEST COAST TRADE UNION CHARACTERISTICS, MEMBERSHIP, AND INFLUENCE

by

IRVING BERNSTEIN

Reprint No. 84

UNIVERSITY OF CALIFORNIA
LOS ANGELES 24, CALIFORNIA
1959

INSTITUTE OF INDUSTRIAL RELATIONS

FEW AREAS in the domestic social life of the nation are vested currently with greater public concern than the field of industrial relations. The development of better relationships between organized labor and organized employers, and the integration of these relationships with the interests of the individual citizens and the nation as a whole, constitute one of the most serious problems facing our economic and social system today.

The Legislature of the State of California expressed its desire to contribute to the solution of this problem when, in 1945, it established an Institute of Industrial Relations at the University of California. The general objective of the Institute is to facilitate a better understanding between labor and management throughout the state, and to equip persons desiring to enter the administrative field of industrial relations with the highest possible standard of qualifications.

The Institute has two headquarters, one located on the Los Angeles campus and the other located on the Berkeley campus. Each headquarters has its own director and its own program, but activities of the two sections are closely integrated through a Coordinating Committee. In addition, each section has a local Faculty Advisory Committee, to assist it in its relations to the University; and a Community Advisory Committee composed of representatives of labor, industry, and the general public, to advise the Institute on how it may best serve the community.

The program of the Institute is not directed toward the special interests of either labor or management, but rather toward the public interest. It is divided into two main activities: investigation of the facts and problems in the field of industrial relations, which includes an active research program and the collection of materials for a research and reference library; and general education on industrial relations, which includes regular University instruction for students and extension courses and conferences for the community.

EXTRACT FROM MONTHLY LABOR REVIEW, VOLUME 82, No. 5, May 1959

Trade Union Characteristics, Membership, and Influence

Organization is chiefly nonfactory and leads the country in penetrating the "difficult" areas of potential membership.

IRVING BERNSTEIN

UNIONISM on the Pacific Coast has a rich and dramatic history, with roots that dig deep into the past, despite the relative youthfulness of the region. In November 1849, during the Gold Rush, the carpenters of San Francisco struck to raise their daily wage from $12 to $16. In 1850, the typographical workers and the teamsters of San Francisco formed unions, and it is probable that the boatmen followed their lead.

Many dramatic incidents of American labor history have taken place on the Pacific Coast: the Gold Rush, the Chinese exclusion movement of the late 19th century, the bombing of the Los Angeles Times in 1910, the San Francisco Preparedness Day bombing of 1916, the Seattle General Strike of 1919, the San Francisco General Strike of 1934, the North American Aviation strike of 1941 that led President Roosevelt to send in Federal troops, the Hollywood jurisdictional strike of 1946. Coast labor has had its colorful figures—the gold miner, the Chinese coolie, the seaman, the fruit tramp, the singing bum (often a Wobbly), the wetback, the longshoreman, the logger, the over-the-road truck-driver, the motion picture star. And it has contributed its share of outstanding union men whose careers, if not always admirable, were invariably interesting: Dennis ("The Chinese Must Go") Kearney; Andrew Furuseth, who dedicated himself to the welfare of the seamen; Jim and John McNamara of the Ironworkers and the bomb; P. H. ("Pinhead") McCarthy, lord of the building trades and mayor of San Francisco; Tom Mooney of the Molders and San Quentin; Harry Bridges of the Longshoremen, the Left, and the General Strike; tough Harry Lundeberg of the Sailors Union of the Pacific; Dave Beck of the Teamsters and the fast buck.

This long history, these dramatic incidents and colorful leaders, and the economic landscape of the region have joined to produce a distinctive Pacific Coast labor movement. While these unions share many features with labor organizations in the remainder of the Nation, they also have unique regional characteristics, most of which are coastwide in extent.

Trade unionism is presently a significant force in the three Pacific Coast States. If we are to gage it by the number of union members, it is more important here than in the Nation as a whole. In California, much the most populous of these States, there were 1,689,500 members in 1956, or 38.8 percent of the 4,354,600 wage and salary workers employed in nonagricultural establishments. In the same year, there were 17,385,000 union members in the continental United States,[1] or 33.6 percent of the 51,766,000 employees in nonagricultural establishments. The extent of organization in Washington and Oregon is even higher. In 1953, according to Troy, Washington was the most unionized State in the United States, Oregon ranked fifth, and California was thirteenth.[2]

[1] Excludes members of intrastate unaffiliated unions (probably numbering 500,000 or more) as well as an unknown number of members of national or international unions who were unemployed, in the Armed Forces, etc.

[2] The source of national data is the Bureau of Labor Statistics. Its figures are published in the Directory of National and International Labor Unions in the United States, 1957 (Bull. 1222, 1957). The California series appears in the annual publication of the Division of Labor Statistics and Research of the State Department of Industrial Relations—Union Labor in California. Its series began in 1950. For a variety of reasons, the 1950 figures are not fully consistent with those that followed, and for the purpose of this paper, the series will be considered to have begun with 1951. The 1953 ranking of Washington and Oregon is from Leo Troy, Distribution of Union Membership among the States, 1939 and 1953 (New York, National Bureau of Economic Research, Inc., 1957), p. 18. For more recent estimates of union membership in these States, the author is indebted to J. H. Davis of the Washington State Labor Council and Tommy Scanlon of the Oregon State Labor Council.

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Recent Membership Trends

Union membership in California has been growing in recent years (table 1). Between 1951 and 1958, the labor movement added 263,100 persons to its ranks, a gain of 18.2 percent. Growth is also evident in the number of local unions in the State. Between 1951 and 1958, there was a net increase of 366, a rise of 11.4 percent.

The advance in membership and organization has been both persistent and undramatic. In only 2 years—1954 and 1958—has the number of members turned down and, in each case, quite modestly. The obvious cause in both 1954 and 1958 was the general recession in business activity. In no year did the unions enjoy a dramatic increase in membership, as they had in the late 1930's and early 1940's. This is because the conditions that create such breakthroughs—major wars and recovery from severe depressions—did not occur during this short period.

When the advance in membership is discounted by California's spectacular expansion in employment, however, the performance of the unions becomes less impressive. The relative number of nonagricultural wage and salary earners who belong to labor unions has actually fallen from 40.8 percent in 1951 to 38.3 percent in 1958. Put another way, between 1951 and 1958, membership advanced only 18.2 percent in contrast with an employment rise of 26.1 percent.

The reasons for the failure of California's labor movement to grow relatively are complex, and the data are insufficient to permit a comprehensive anaylsis. An important factor has been the inability of the unions to keep up with rising employment in manufacturing. It appears that the proportion of manufacturing employees who were union members declined from 52 percent in 1951 to 46 percent in 1957. Part of this drop must be laid to the marked shift, notable in the aircraft-missile industry, from blue- to white-collar employment. The remainder may perhaps be explained by the difficulty of maintaining pace with a proliferation of new small plants, especially in southern California.

Industrial Distribution. Table 2 reveals the industrial distribution of California's union members for 1951 and 1957. A most significant feature of California unionism, stemming from the nature of its economy, is its predominantly nonfactory membership. For American unions as a whole, according to the Bureau of Labor Statistics, only 51 percent of the membership was in nonmanufacturing industries in 1956. In California, by contrast, industries other than manufacturing accounted for 67 percent of the membership in 1957. In substantial part, this is explained by the great importance of construction in a rapidly expanding economy as well as more intensive organization by California unions. The building trades supplied 19 percent of California's membership in 1957, in comparison with less than 12 percent for all American unions in 1956. The nonfactory character of California's unions is not new; in 1951, the relationship between the two industry groupings was identical.

The most important membership gains have been in heavy manufacturing, in construction, in public utilities, in wholesale and retail trade, in hotels and restaurants and miscellaneous services, and in public employment. The union advances in metals and machinery, transportation equipment, and other manufacturing reflect the rapid industrialization of California's economy. The gains in construction stem from general economic growth. Those in the other nonmanufacturing industries represent a significant breakthrough for union organization into largely new ground.

For major industry groupings, estimates of California union membership as a percentage of employment in 1957 were as follows:

	Percent
Construction	[1] 117
Transportation and warehousing	87
Public utilities	47
Manufacturing	46
Trade and service	28
Mineral extraction	13

[1] This unusual statistic is explained by two factors: the intermittency of employment and the fact that many unionized building tradesmen work in industries other than construction.

SOURCE: See text footnote 2.

These figures provide a basis for comparing the extent of organization in California with that in the other Pacific Coast States. Table 3 presents Oregon's approximate union membership by industry in 1958. These estimates are supported by the BLS survey of 148 establishments in the Portland labor market in April 1958. Of their 51,070 employees, approximately two-thirds were

plant workers [3] and the remainder office personnel. The proportion of plant workers covered by labor-management agreements was 85–89 percent in manufacturing, over 95 percent in public utilities, and 60–64 percent in retail trade. The corresponding percentages for office employees were less than 5 percent in manufacturing, 60–64 in utilities, and 35–39 in trade.[4]

Despite marked differences in the economic development of Oregon and California, the pattern of unionization is similar. In both States, construction as well as transportation and warehousing are completely or almost entirely organized, manufacturing is approximately half unionized, about three-tenths of the workers in trade and service are union members, and only a minor fraction of those in the extractive industries have joined. The only significant deviation is in public utilities. Here Oregon is almost wholly and California is not quite half organized.

Table 4 reveals Washington's approximate union membership distribution by industry in 1958. Washington is, as previously noted, the most highly unionized of the Pacific Coast States. In contrast with Oregon, the following industries show a greater concentration of membership: petroleum, chemicals, and rubber; transportation equipment; "other manufacturing"; motion pictures (chiefly theaters); and government. Only in the case of food and kindred products does Oregon take the lead.

Geographic Distribution. The geographic distribution of union membership within each of the Pacific States is related mainly to urban industrialization and to a lesser extent to natural resource location. Western Washington, which contains most of the metropolitan areas, is more highly organized than the eastern part. In Oregon, according to the Oregon State Labor Council, 80 percent of the members live west of the Cascades, mainly in the Willamette Valley and in the coastal towns. In the case of California, it is possible to deal with local areas precisely and to note several interesting recent developments. Table 5 presents the geographic distribution of California's membership in 1954 and 1957, ranked by rate of growth.[5] It reveals a dramatic relative shift from the north to the south. Of the five leading districts in rate of growth, four are southern. These four districts comprise the whole region generally referred to as southern California. The Southeast ranks first, Santa Barbara–Ventura is second, San Diego is fourth, and Los Angeles–Long Beach ranks fifth. The explanation for this growth in the south is rapid urbanization, industrialization, and population expansion.

TABLE 1. CALIFORNIA UNION MEMBERSHIP AND UNION LOCALS, 1951–58 [1]

Year [1]	Membership		Number of locals
	Number (in thousands)	Percent of employment in nonagricultural establishments	
1951	1,443.1	40.8	3,218
1952	1,503.4	40.2	3,355
1953	1,577.9	40.5	3,382
1954	1,566.1	40.6	3,384
1955	1,618.5	39.3	3,430
1956	1,689.5	38.8	3,432
1957	1,736.7	38.6	3,490
1958	1,706.2	38.3	3,584

[1] Data relate to July 1 of each year.

SOURCE: See text footnote 2.

TABLE 2. CALIFORNIA UNION MEMBERSHIP BY INDUSTRY, 1951 AND 1957 [1]

Industry	1951 [1]		1957 [1]	
	Number (in thousands)	Percent	Number (in thousands)	Percent
Total	1,443.1	100	1,736.7	100
Manufacturing	468.1	33	575.0	33
Food and kindred products	115.7	8	114.0	7
Textiles and apparel	25.6	2	22.5	1
Lumber and furniture	42.5	3	40.8	2
Printing and publishing	23.7	2	29.7	2
Petroleum, chemicals, and rubber	32.3	2	36.0	2
Metals and machinery	112.1	8	141.5	8
Transportation equipment	87.1	6	144.4	8
Other manufacturing	29.1	2	46.1	3
Nonmanufacturing	975.0	67	1,161.7	67
Agriculture, fishing, and mineral extraction	12.5	1	9.5	(2)
Construction	266.5	18	328.8	19
Transportation and warehousing	191.7	13	201.4	12
Public utilities	55.2	4	66.2	4
Trade, wholesale and retail	156.3	11	220.3	13
Eating and drinking places, hotels and other lodging places	87.0	6	100.4	6
Motion picture production, distribution, service, and theaters	76.9	5	73.9	4
Miscellaneous services	80.9	6	103.8	6
Government	48.0	3	57.4	3

[1] Data relate to July 1 of each year.
[2] Less than 0.5 percent.

SOURCE: See text footnote 2.

[3] Employees engaged in maintenance, powerplant, custodial, and material movement occupations, as well as those in direct production occupations, which were not surveyed.

[4] Occupational Wage Survey, Portland, Oregon, April 1958 (BLS Bull. 1224–16, 1958), p. 14.

[5] It is not possible to employ earlier data for comparative purposes because of changes in area definitions in 1954.

TABLE 3. OREGON UNION MEMBERSHIP, APPROXIMATE EXTENT BY INDUSTRY, 1958

Industry	Percent of organization				
	1-20	21-40	41-60	61-80	81-100
MANUFACTURING					
Food and kindred products				x	
Textiles and apparel			x		
Lumber and furniture				x	
Printing and publishing					x
Petroleum, chemicals, and rubber				x	
Metals and machinery				x	
Transportation equipment	x				
Other manufacturing	x				
NONMANUFACTURING					
Agriculture, fishing, and mineral extraction	x				
Construction					x
Transportation and warehousing					x
Public utilities					x
Trade, wholesale and retail		x			
Eating and drinking places, hotels and other lodging places			x		
Motion picture production, distribution, service, and theaters			x		
Miscellaneous services	x				
Government	x				

SOURCE: See text footnote 2.

Historically, San Francisco was known as a "union" town and Los Angeles as "open shop," but this has long since ceased to be the case. The probability is that the number of union members in Los Angeles first exceeded that in San Francisco at the end of World War II. By 1957, the southern city's lead had widened to 204,000. Nevertheless, unions in the Bay area have penetrated more deeply. In 1957, according to the California Division of Labor Statistics and Research, union members constituted 50 percent of employment in San Francisco–Oakland, 35 percent in Los Angeles–Long Beach, and 37 percent in San Diego. If San Diego continues to grow at the rate which it has enjoyed in the past decade, California will before long have a third major center of trade union strength.

The waning of San Francisco in relation to other cities has been accompanied by the decline of the maritime unions. The seamen and the longshoremen once played decisive roles in West Coast unionism and their main stage was San Francisco Bay. They are now supporting players. This has stemmed in part from the decline of the American merchant marine, but more importantly, from the rapid growth of other organizations. Nowadays, Los Angeles Joint Council 42 of the Teamsters alone has more members than the Sailors Union of the Pacific and the International Longshoremen's and Warehousemen's Union combined.

Table 5 also demonstrates that unions have been entering new localities and small communities. This is most evident in the case of the Southeast, embracing Imperial, Riverside, and San Bernardino Counties, which has no large cities and was heretofore little unionized. Much the same may be said of Santa Barbara–Ventura and the Sacramento Valley, in which the growth of union membership has exceeded the statewide rate. If it were possible to break down the data for San Francisco Bay and Los Angeles–Long Beach, the same tendency would doubtless be in evidence. It is likely, for example, that such outlying and formerly agricultural areas as Santa Clara County, the San Fernando Valley, the Antelope Valley, and Orange County have seen a higher relative growth in membership than have the cities of San Francisco and Los Angeles.

Special Features of West Coast Unionism

Pacific Coast unionism differs from unionism in the Nation as a whole in having made a deeper, though hardly complete, penetration into those sectors which are difficult to organize. Retail workers in food markets and drugstores are generally union members, and in some communities, the same is true in the department stores. Several of the southern California aircraft companies bargain with unions representing their engineers.

TABLE 4. WASHINGTON UNION MEMBERSHIP, APPROXIMATE EXTENT BY INDUSTRY, 1958

Industry	Percent of organization				
	1-20	21-40	41-60	61-80	81-100
MANUFACTURING					
Food and kindred products			x		
Textiles and apparel			x		
Lumber and furniture				x	
Printing and publishing					x
Petroleum, chemicals, and rubber					x
Metals and machinery				x	
Transportation equipment				x	
Other manufacturing			x		
NONMANUFACTURING					
Agriculture, fishing, and mineral extraction	x				
Construction					x
Transportation and warehousing					x
Public utilities					x
Trade, wholesale and retail		x			
Eating and drinking places, hotels and other lodging places			x		
Motion picture production, distribution, service, and theaters				x	
Miscellaneous services	x				
Government		x			

SOURCE: See text footnote 2.

TABLE 5. CALIFORNIA UNION MEMBERSHIP BY AREA, 1954 AND 1957 [1]

[Membership in thousands]

Area	1954 [1]	1957 [1]	Percent change
Total	1,566.1	1,736.7	+11
Southeast (3 counties)	46.2	62.0	+34
Santa Barbara-Ventura (2 counties)	17.1	22.8	+33
Sacramento Valley (8 counties)	57.7	68.4	+19
San Diego County	71.6	83.0	+16
Los Angeles-Long Beach (2 counties)	688.3	763.5	+11
North Coast (4 counties)	14.1	15.7	+11
San Francisco Bay (9 counties)	517.3	559.5	+8
San Joaquin Valley (8 counties)	97.2	105.1	+8
Mountain (17 counties)	31.7	33.6	+6
Central Coast (4 counties)	24.9	23.1	−7

[1] Data relate to July 1 of each year.

SOURCE: See text footnote 2.

Many small towns are well organized. Even agriculture has been breached; the packing shed workers are unionized and the dairy farm workers in the San Francisco and Los Angeles areas belong to the Teamsters. Government employees, especially in Washington and Oregon, are frequently union members.

The pattern of unionization is coastwide. The labor movement in each of the three States is predominantly nonfactory. This is especially the case in Washington, where construction, transportation and warehousing, and public utilities are highly organized and trade, restaurants and hotels, and government are relatively well organized.

The nonmanufacturing character of unionism on the Pacific Coast, as might be expected, is reflected in the international unions that lead in membership. The five ranking organizations in California, Oregon, and Washington (all AFL–CIO affiliates except the Teamsters) are the following:

Rank	*California*	*Oregon*	*Washington*
1	Teamsters	Carpenters	Teamsters
2	Machinists	Teamsters	Machinists
3	Carpenters	Woodworkers	Hotel Workers [1]
4	Hotel Workers [1]	Hotel Workers [1]	Carpenters
5	Retail Clerks	Machinists	Woodworkers

[1] Hotel and Restaurant Employees and Bartenders International Union.

SOURCE: See text footnote 2.

Excepting the Machinists, a large part of whose membership is in the aircraft industry in California and Washington, these organizations are predominantly nonfactory. The coastwide pattern is apparent in the fact that four internationals—the Teamsters, Machinists, Carpenters, and Hotel and Restaurant Employees—make the "big five" in all three States. The fifth is the Woodworkers in Washington and Oregon, but it is the Retail Clerks in California, where the lumber industry is relatively less important.[6] Because of the weight of this industry in Oregon, the Teamsters drop to second behind the Carpenters.

In premerger terms, the Pacific Coast is preeminently AFL country. Of the six unions listed, five were formerly affiliated with the American Federation of Labor; only the Woodworkers were in the Congress of Industrial Organizations. Of the 15 largest unions in California in 1957, only 2 were at one time CIO; the Auto Workers ranked 8th and the Steelworkers 10th. Of California's union membership just prior to merger, according to the Division of Labor Statistics and Research, 81 percent was AFL, 12 percent CIO, and 7 percent independent. A recent estimate for Washington by its State Labor Council was 80 percent AFL, 15 percent CIO, and 5 percent unaffiliated. For Oregon, an estimate by its State Labor Council, excluding the unaffiliated, was 80 percent AFL and 20 percent CIO.

These figures may overestimate the importance of the former CIO unions in the Pacific Coast labor movement, because much of their membership was concentrated in branch plants of nationwide steel, automobile, farm equipment, rubber, electrical, and meatpacking companies. The unions that represent their employees locally, however, have looked for leadership to the centers of power in Pittsburgh, Detroit, Akron, Washington, and Chicago.

The unions that have been most influential in the region have historically organized in essentially local product-market industries and have enjoyed a large measure of autonomy in relation to their internationals. This has been the case with the building trades, the printing trades, the metal trades, and the Teamsters. Local leaders, by and large, conducted collective bargaining and ran their organizations without interference from above. Growing integration of the national economy, centralization within unions, and pooled wel-

[6] See the article on the lumber industry by Paul L. Kleinsorge on pp. 558–563 of this issue.

fare and pension funds have, however, produced changes.

The union that best illustrates this tension between centrifugal and centripetal forces is the Teamsters. A generation ago Teamster locals on the Pacific Coast had little more than a nodding acquaintance with their international in Indianapolis or, for that matter, with each other. Since then, the rapid growth of the over-the-road trucking industry has tended to pull them together.[7] Moreover, Dave Beck's massive changes in the union's structure, first as head of the Western Conference and later as international president, spurred centralization. His successor, James R. Hoffa, has diligently pursued the same objective, thus far with only middling success in the West. Most of the industries in which the union operates there retain their local product markets, and deep-seated traditions of autonomy are not easily erased.

The nonfactory character of West Coast industry and unionism has had a marked impact upon the region's collective bargaining, notably by fostering association bargaining.[8] The region's relatively numerous small employers have found it necessary to organize themselves in self-defense against strong unions. Association bargaining predominates in northern California, in Oregon, and in Washington. Multifirm bargaining is probably more highly developed in the San Francisco Bay area than in any other labor market in the United States. Even in southern California, with its large manufacturing companies, multiemployer bargaining covers a majority of the workers under agreements.

The Circumstances of Success

The relative success of West Coast unionism arises from a variety of causes. It goes back in time to the Gold Rush, which immediately established San Francisco as an important trade union center. The history of labor on the Coast over the last 110 years reflects the gradual extension of the San Francisco pattern of organization and bargaining to the other communities, large and small, of California, Oregon, and Washington—and, for that matter, of the intermountain States. This movement from its inception was mainly nonfactory, and it organized workers, like retail clerks, who were nonunion elsewhere. The pattern included, as well, the employer association, which has spread from the Bay area throughout the region. This type of association is designed for collective bargaining and cannot function unless the workers are unionized. In many trades, therefore, the associations and unions have joined forces to organize both the employers and the workers. Another factor of importance has been the phenomenal growth of the Teamsters in Washington and California. This organization's power over transportation has been used as a lever to unionize many nontrucking workers, sometimes within the Teamsters and at other times in other international unions. With economic power has come political strength, which, in turn, has created a climate favorable for further unionization. Washington, Oregon, and California have had administrations and legislatures friendly to unions. Social legislation is advanced, and there are no laws that inhibit union growth. Voters in Washington in 1956 and in California in 1958 decisively rejected "right-to-work" legislation. Relative strength in agriculture and food and drug retailing is probably explained in part by the fact that large-scale operations in these industries emerged earlier on the Pacific Coast than elsewhere. The packing shed "factory" and the supermarket are easier to unionize than the family farm and the corner grocery store. Finally, these States have a number of large projects, like the Bonneville Dam, at which the Federal Government engages in collective bargaining with its employees.

The development of unionism on the Pacific Coast may foreshadow the future of the American labor movement. If the latter is to continue to grow, it must penetrate those industries presently poorly organized, like trade, finance, insurance, services, and government, as well as those localities now little unionized, including the smaller communities. Success might lie in following the pattern that is already emerging on the Pacific Coast.

[7] See the article on the trucking industry by R. Thayne Robson on pp. 547–551 of this issue.

[8] See the articles on association bargaining by Van Dusen Kennedy on pp. 539–542 of this issue.

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81. The Situs Dimension in Occupational Structure, by Richard T. Morris and Raymond J. Murphy (1959)
82. Economics by Negotiation, by George H. Hildebrand (1959)
83. Reducing the Risks of Labor Arbitration, by Paul Prasow (1959)

Books

Obtainable from the University of California Press, Berkeley:

The New Deal Collective Bargaining Policy, by Irving Bernstein (1950). Price: cloth, $3; paper, $2

The Pacific Coast Maritime Shipping Industry, 1930–1948, by Wytze Gorter and George H. Hildebrand. Vol. I, An Economic Profile (1952). Price $2.50. Vol. II, An Analysis of Performance (1954). Price: $5

Community Wage Patterns, by Frank C. Pierson (1953). Price: $3.75

Arbitration of Wages, by Irving Bernstein (1954). Price: $3.50

Rise of the Labor Movement in Los Angeles, by Grace Heilman Stimson (1955). Price: $6

Andrew Furuseth, Emancipator of the Seamen, by Hyman Weintraub (1959). Price: $5

Obtainable from John Wiley & Sons, 440 Fourth Ave., New York 16:

Men Who Manage, by Melville Dalton (1959). Price: $6.75

Monographs: obtainable from the Institute of Industrial Relations, Los Angeles

No. 1: Due Process on the Railroads, Revised Edition, by Joseph Lazar (1958). Price: $1.25 each, 1–9 copies; $1.00, 10–99 copies; 75c, 100 or more

No. 2: Right-to-Work Laws: A Study in Conflict, by Paul Sultan (1958). Price: $1.75 each, 1–9 copies; $1.50, 10–99 copies; $1.25, 100 or more

No. 3: The Knights of Labor in Belgium, by Léon Watillon. Translated by Frederic Meyers (1959). Price: $1.50

Popular Pamphlets: obtainable from the Institute of Industrial Relations. Price: 50c, 1–9 copies; 40c, 10–99; 30c, 100 or more

Collective Bargaining, by Edgar L. Warren and Irving Bernstein

Making Grievance Procedures Work, by Abbott Kaplan

Employing the Seriously Impaired, by Robert D. Melcher

Wages: An Introduction, by H. M. Douty

Union Security, by Orme W. Phelps

Wage Structures and Administration, by H. M. Douty

Health Insurance: Group Coverage in Industry, by Richard Baisden and John Hutchinson

Personnel Management in Small Companies, by Frances Torbert

Miscellaneous: obtainable from the Institute of Industrial Relations, Los Angeles

Problems in the Use of Indirect Methods of Attitude Measurement, by Irving R. Weschler (1951)

When It's Time for a Change, by Robert Tannenbaum (1956)

The Industrial "Rate-Buster": A Characterization, by Melville Dalton (1956)

The Introduction of Change in Industrial Organizations, by Robert Tannenbaum (1957)

Postwar Italy: A Study in Economic Contrasts, by George H. Hildebrand (1957)

Evaluating Research and Development: Annotated Proceedings of a Conference of Research Administrators Held in Los Angeles, May 10, 1952. Price: $1

An Evaluative Focus on Human Relations, by Robert Tannenbaum (Mimeo). Price: 50c

Industrial Human Relations: A Selected Bibliography, by Irving R. Weschler and Robert Tannenbaum (1956) (Mimeo). Price: 35c

Research Developments in Personnel Management, Proceedings of the First Conference, UCLA, 1956. Price: $1

The Secular Outlook: Wages and Prices, by John T. Dunlop (1957). Price: $1

A descriptive brochure on the Institute of Industrial Relations, University of California, Los Angeles, is available free of charge.

Steward Training Materials
Fact Sheet 1

November
1960

University of Wisconsin
School for Workers

Requirements of a Good Grievance Procedure

1. Fairness:

A. The employee should feel free to use the procedure without fear of reprisal.

B. The union should participate at every stage of the procedure.

C. The end point of the procedure should be one in which the dispute is finally settled by an impartial third party if settlement between the union and management fails at earlier stages.

2. Speed:

A. There should be definite time limits that are enforced for each stage of the procedure.

B. It should not be possible for a grievance to drag on and on.

C. Inducements should be built in the procedure encouraging settlement at the first stage.

3. Understandability:

A. Unnecessary red tape should be eliminated.

B. Employees and supervision should understand the procedure.

C. The procedure should be uniform for every employee and every type of grievance.

D. It may be desirable however to provide for short cuts in disciplinary cases, especially those involving discharges.

4. Comprehensiveness:

A. The procedure ought to be wide enough to admit all grievances whether or not specifically related to contract or regulations.

JAN 1962

THIS IS THE

AFL-CIO

AMERICAN FEDERATION OF LABOR & CONGRESS OF INDUSTRIAL ORGANIZATIONS

AFL CIO

PREAMBLE TO THE AFL-CIO CONSTITUTION

The establishment of this Federation through the merger of the American Federation of Labor and the Congress of Industrial Organizations is an expression of the hopes and aspirations of the working people of America.

We seek the fulfillment of these hopes and aspirations through democratic processes within the framework of our constitutional government and consistent with our institutions and traditions.

At the collective bargaining table, in the community, in the exercise of the rights and responsibilities of citizenship, we shall responsibly serve the interests of all the American people.

We pledge ourselves to the more effective organization of working men and women; to the securing to them of full recognition and enjoyment of the rights to which they are justly entitled; to the achievement of ever higher standards of living and working conditions; to the attainment of security for all the people; to the enjoyment of the leisure which their skills make possible; and to the strengthening and extension of our way of life and the fundamental freedoms which are the basis of our democratic society.

We shall combat resolutely the forces which seek to undermine the democratic institutions of our nation and to enslave the human soul. We shall strive always to win full respect for the dignity of the human individual whom our unions serve.

With Divine guidance, grateful for the fine traditions of our past, confident of meeting the challenge of the future, we proclaim this constitution.

THE AFL-CIO
. . . What It Is

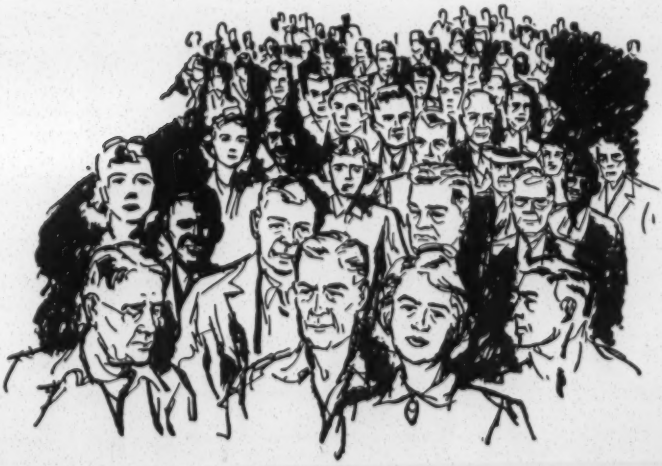
The American Federation of Labor and Congress of Industrial Organizations—usually referred to as the AFL-CIO—is a federation of 131 autonomous, democratic labor unions in the United States.

The AFL-CIO was established on December 5, 1955, when the American Federation of Labor and the Congress of Industrial Organizations merged into a single trade union center. This merger ended a 20-year split in the ranks of the American labor movement, uniting the AFL, which was founded in 1881 and the CIO, founded in 1935.

The AFL-CIO is composed of 13.5 million men and women, who have joined labor unions to bargain collectively with their employers. The unions are their representatives in negotiations with employers on wages, hours and working conditions.

Out of these negotiations come labor-management agreements or contracts, under which the workers have job security and are protected against the whims of an employer.

There are more than 60,000 local unions in



the national and international unions of the AFL-CIO. In the various states and cities, several hundred AFL-CIO central bodies represent the workers of each area in connection with a host of community, legislative and political activities.

The unions of the AFL-CIO have signed more than 100,000 collective bargaining agreements with several hundred thousand American employers in every industry, craft and trade in the country.

THE AFL-CIO
. . . . *Its aims and aspirations*

The aims and aspirations of the AFL-CIO are clearly spelled out in its Constitution. In brief they are:

- To improve wages, hours and working conditions for workers.
- To bring the benefits of free collective bargaining to all workers.
- To achieve equality of opportunity for all workers, regardless of race, creed, color or national origin.
- To support legislation which will aid workers and to oppose harmful legislation.

- To protect and strengthen democratic institutions and to preserve America's democratic traditions.
- To aid in promoting the cause of peace and freedom in the world.
- To protect the labor movement against corruption and racketeers.
- To safeguard the labor movement from Communists, Fascists or other totalitarians.
- To encourage workers to register and vote and to exercise fully their responsibilities as citizens.
- To encourage the sale of union-made goods through the use of the union label.

THE LABOR MOVEMENT

. . . *Its accomplishments*

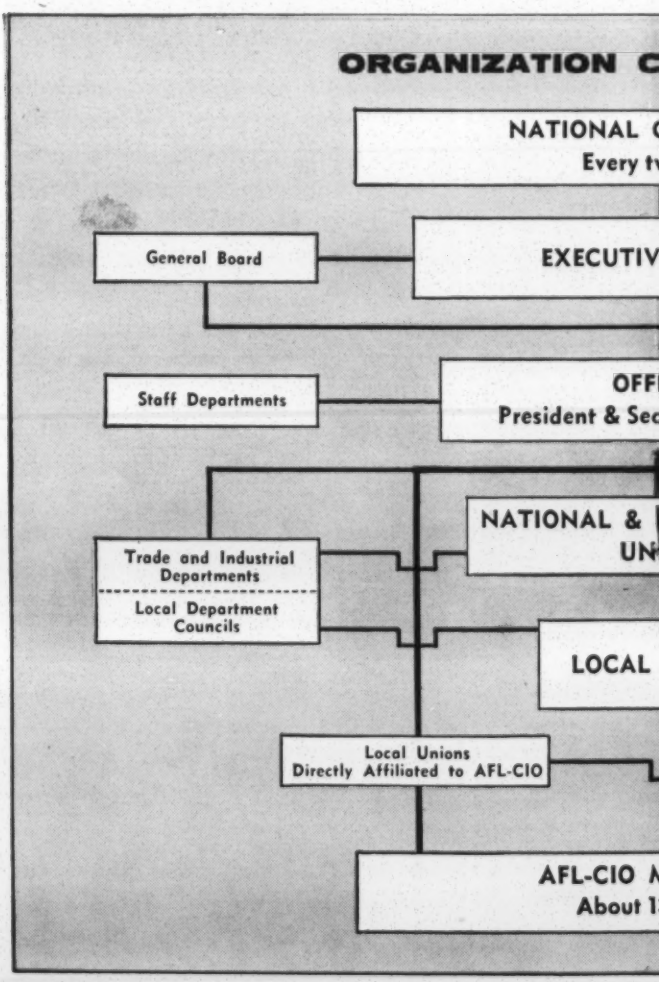
The accomplishments of the American labor movement in achieving a better standard of living for workers are unchallenged. As a result of the efforts of American trade unions, workers in this nation have a higher income, work fewer hours, enjoy more protection and benefits such as pensions and vacations, and work under healthier and

safer conditions than in any other nation in the world.

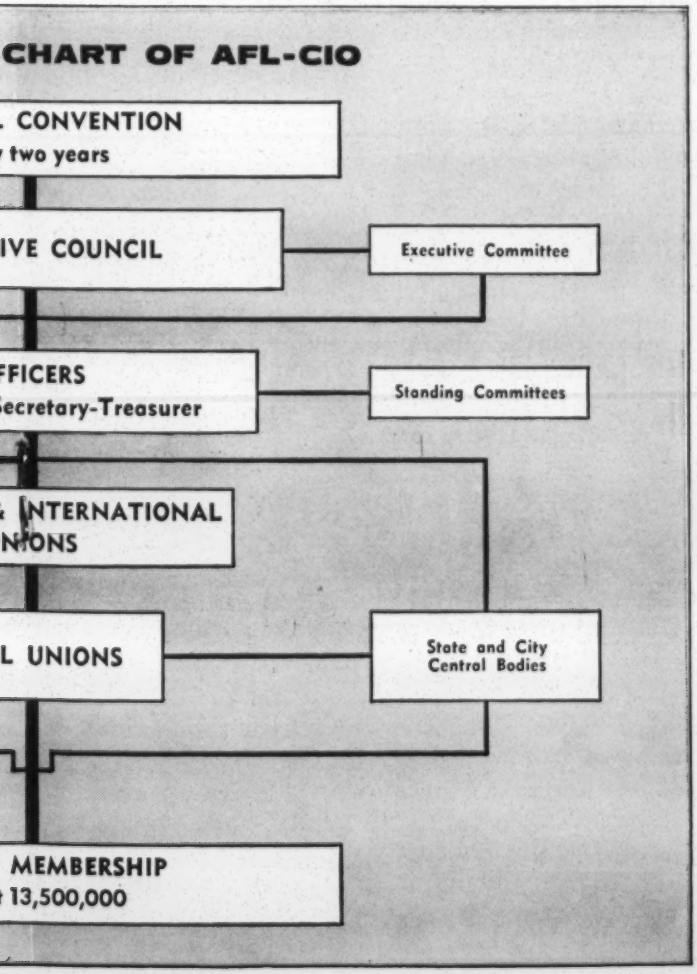
Sweatshops have been almost completely eliminated. Child labor has been almost abolished. The American worker has indeed achieved a sense of human dignity never before achieved, in America or in the world.

But the efforts of the labor movement have not been confined to these fields. The trade unions of the AFL-CIO have been staunch advocates of all that benefits the community as a whole.

These are several of the fights the union movement has waged and won:



- Universal free public education.
- Laws providing for a minimum wage and maximum work week.
- Workmen's compensation to protect workers injured on the job.
- Unemployment insurance to provide an income for workers unemployed through no fault of their own. Of course, this also helps to protect the whole economy from depressions created through mass unemployment.
- Social Security, which brings dignity to workers in their twilight years.



THE AFL-CIO
. . . *How it functions*

The AFL-CIO is a federation of national and international unions.

Each is fully autonomous. Each carries on collective bargaining with employers; maintains its own headquarters; elects its own officers; maintains the staff needed for administration and service; sets its own dues; provides the services its members need and want.

The AFL-CIO holds biennial conventions which establish a general policy on economic, legislative and political matters. The convention also elects the officers of the AFL-CIO. The convention is the supreme governing body of the organization.

The first president of the AFL-CIO was George Meany, who was elected unanimously at the merger convention which established the AFL-CIO. Elected at the same time was the organization's first secretary-treasurer, William F. Schnitzler.

The AFL-CIO has 27 vice presidents. The president, the secretary-treasurer and the 27 vice presidents constitute the Executive Council, which is the official governing body of the organization between conventions.

The AFL-CIO has two other official bodies —the Executive Committee and the General Board. The Executive Committee is composed of the president, the secretary-treasurer and six vice presidents, elected by the Executive Council. This group meets more often than the Executive Council and serves as an advisory group to the executive officers.

The General Board is composed of the Executive Council plus one officer of each

affiliated union and one officer of each of the seven constitutional departments. The General Board meets annually to act upon matters referred to it by the Executive Council.

The organizational structure of the AFL-CIO (described in chart form on the preceding pages) insures the preservation of the democratic process in the organization.

The AFL-CIO, through its headquarters staff, provides services to the affiliated unions, in the fields of research, education, legal aid, public relations and other matters. It serves as the general representative of all the affiliated unions in appearances before Congress and in dealing with the various departments of the government.

Through its field staff, the AFL-CIO aids affiliates and organizes workers into unions of their own choosing, giving recognition to the principle that both craft and industrial unions are appropriate, equal and necessary as methods of union organization.

The AFL-CIO has established, and is vigorously enforcing, a six-point program of ethical standards, designed to rid the labor movement of racketeers. These Codes of Ethical Practices, based on the unwritten law of the trade union movement, insist that union office and union funds are a public trust to be used only for the benefit of workers. Unions violating this code of honor face action on the part of the federation. Unions are expected to observe these codes, which are basic policy of the AFL-CIO.

The AFL-CIO has the following constitutionally established committees: Legislation, Civil Rights, Political Education, Ethical Practices, International Affairs, Organization, Education, Social Security, Economic Policy, Community Services, Housing, Research, Public Relations, Safety and Occupational Health, Veterans Affairs.

The AFL-CIO publishes a weekly newspaper, the AFL-CIO News, and a monthly magazine, The AFL-CIO American Federationist. Some of the departments of the AFL-CIO issue specialized publications.

THE AFL-CIO
. . . *And the community*

"What's good for America is good for labor."

That is the motto and the practice of the AFL-CIO. It is a belief which has led the AFL-CIO, in its constitution, to pledge itself to "responsibly serve the interests of all the American people."

One of the ways, of course, is through the exercise of the rights and responsibilities of citizenship. To aid in thus advancing the general welfare the AFL-CIO has established the Committee on Political Education.

COPE seeks to inform union members and their neighbors about the issues and the candidates and to report on the record of stewardship of public servants. It seeks to get workers registered so they can vote and to get them to the polls on Election Day.

COPE is financed through the voluntary contributions of union members. It is not a political party. In fact, the resolution adopted unanimously by the first constitutional convention of the AFL-CIO states: "We reaffirm organized labor's traditional policy of avoiding entangling alliances with any other group and of supporting worthy candidates regardless of party affiliation."

The AFL-CIO is active in the international

community, too, through its membership in the International Confederation of Free Trade Unions, an organization of free, democratic unions throughout the world which seeks better living standards for all people.

Through the ICFTU and its regional organizations, the AFL-CIO is playing a major role in fighting attempts by communists to subvert the trade union movement.

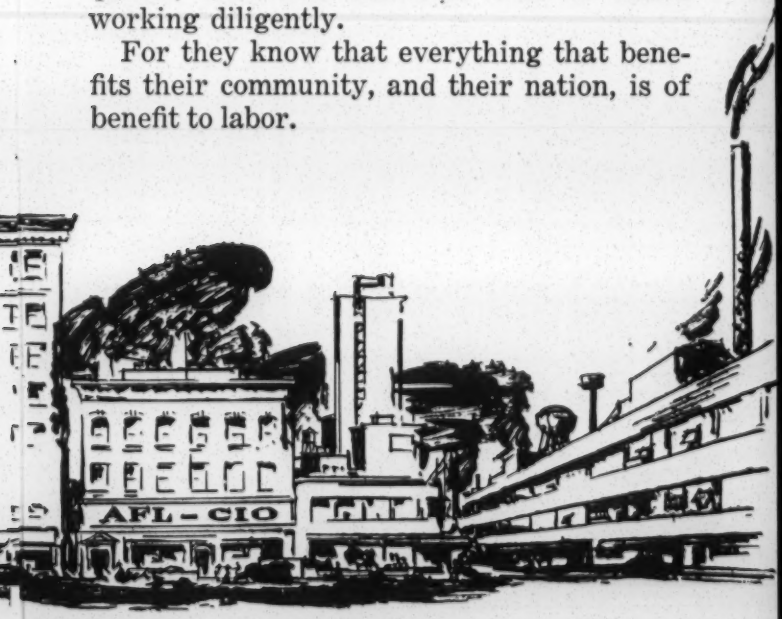
Another way in which the AFL-CIO supports the community is through the legislative policies it supports and advocates. It seeks legislation which will benefit the general public.

Members of the AFL-CIO, in communities everywhere in America, aid in raising funds for worthy community endeavors. They hold positions of responsibility on committees of all sorts of community organizations and give generously of their time and effort to promote worthwhile undertakings.

The AFL-CIO Committee on Community Services, through regular training programs, helps prepare union members for these posts.

Whether it is a campaign for better schools or more hospitals or a drive to eliminate slums or aid in combatting juvenile delinquents, AFL-CIO members will be found working diligently.

For they know that everything that benefits their community, and their nation, is of benefit to labor.



THE AFL-CIO

Publication No. 20

Revised, January, 1962

Issued by

American Federation of Labor and
Congress of Industrial Organizations

George Meany
President

Wm. F. Schnitzler
Secretary-Treasurer

AFL-CIO Building Washington 6, D. C.

Printed in U.S.A.

LABOR MONOGRAPH NO. 2

a Contemporary Analysis of a Labor Union

AMALGAMATED ASSOCIATION OF STREET, ELECTRIC RAILWAY AND MOTOR COACH EMPLOYES OF AMERICA, AFL-CIO

DEVELOPMENT
STRUCTURE
FUNCTIONS

by
MILES E. HOFFMAN
Department of Economics and Management
TEMPLE UNIVERSITY
Philadelphia, Pa.

Printed in U.S.A.

LABOR MONOGRAPH NO. 3

a Contemporary Analysis of a Labor Union

GRAND
INTERNATIONAL
BROTHERHOOD OF
LOCOMOTIVE
ENGINEERS

DEVELOPMENT
STRUCTURE
FUNCTIONS

by
MILES E. HOFFMAN
Department of Economics
and Management
TEMPLE UNIVERSITY
Philadelphia, Pa.

HANDBOOK ON CENTRAL LABOR BODIES:

FUNCTIONS and ACTIVITIES

Joan G. Kilpatrick
and
Miles C. Stanley

WEST VIRGINIA UNIVERSITY BULLETIN

LABOR MONOGRAPH NO. 6

A Contemporary
Analysis of A
Labor Union

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA

DEVELOPMENT — STRUCTURE — FUNCTIONS

by

MILES E. HOFFMAN
School of Business Administration
TEMPLE UNIVERSITY
Philadelphia, Penna.

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February 8, 1965

MEMO:

To: Emory Via

From: Irving Brotslaw

Subject: Spring class,
AFSCME Local No. 82

I see by the papers that you are scheduled to teach the class in union administration and grievance handling for Local 82, AFSCME. This local is composed of employees in the various departments of the University of Wisconsin-Milwaukee. There is no contract, but there is a formal grievance procedure, a copy of which is enclosed.

The class is called "Union Administration," but should also include a fair amount of grievance handling and related topics, similar, I suppose, to what you did with District Council 48. If you need additional information, our local contact is Mrs. Toni Tschanz, whose address is 4396 North 27th Street, Milwaukee. Her extension at the university is ~~4786.~~ 4698

257-1064 Steve Clark is the District Representative servicing Local 82. He is located in Madison (713 Insurance Building, 119 Monona Avenue). When I met with the local to arrange the class, he indicated that he had put together a kit on union structure, etc. which might be helpful in teaching this class. You may want to contact him to get this information.

The class will begin on Wednesday, March 10 at 7:20 p.m. 7:00 on Notice It will meet on the Kenwood campus, in Bolton 84. Bolton Hall is the brand new classroom building, and is located at 3222 North Downer Avenue. No I will be glad to escort you to the building on the first night of classes, in case you have any difficulty in locating it. If you have any other questions, please let me know.

? Mrs. Tschanz has apparently recruited a sufficient number of students, and she is going to give me a list of the names and addresses of the enrollees. We, in turn, will notify each of them by mail about starting date, location, etc. It would seem, therefore, that the class will go.

Best regards.

IB

9 sessions?

How many? 24-25
Composition
Maintenance
3 or 4 affiliates

IB/sh
encl.

Via See Clark — (Check staff from Chapman)
re: structure
rec. grievance procedure
Stewards manual

4/7/65

Summary of points from last week

What can we do with these suggestions

Who can give performance on them

Union – Committee – as is? – need structure?

mgt –

What will it take?

info –

policy formation

organization

Specific tasks

Does "Participation ~~emerge~~ emerge as one key?"

What is participation? ~~How~~ What are the ways that members participate —

dues – meetings – committees – speaking – grievances – talk on the side – reading notices and correspondence —

~~(over)~~

Beyond The Picket Line

HOW TO ORGANIZE A STRIKE ASSISTANCE PROGRAM

A REPORT

to

The Fund

for the Republic

Union Constitutions

LEO BROMWICH

NAME	AFSCME Local 82 Position	Univ of Wis - Milw Job
Chrobak, John	Trustee	Supervisor - Electrical Shop
Holle, Robert		Janitor
Kohel, Loren		Plumber
Krimmer, Frank P.	Steward	Maintenance
McCabe, Alvin	Trustee	B. M. H. III
Owens, Thomas G.	Treasurer	Painter
Puchalski, Anni	Steward	B. M. H. II
Puchaslski, Emilian		Painter
Recker, Carl	Steward	Steamfitter
Sather, Allan		
Sherosky, John	Vice-Pres. - Steward	Operating Engineer
Short, Mabel	Trustee	PBX Operator
Smoody, Philip	Steward	
Tschanz, Toni	Secretary	Library Assistant
Wagner, Earl	Steward	Painter
Halkola, Paul	Steward	UW - Milwaukee BMH-II
Bie, George		Univ of Wis. Motor Vehicle Oper
Sutton, James	Steward	Plant Protion
Grennier, Lawrence	President	

Educational Department, ILGWU
1710 Broadway,
New York 19, N. Y.

IDEAS EDUCATION COMMITTEE MIGHT CONSIDER

1. Hand out a book or a pamphlet each month.
2. Use sketches from JUSTICE to post notices of your union meeting.
3. Hold initiation meetings for new members.
4. Give "welcome new member" kit to each new member.
5. Write a welcome letter to the family of each new member.
6. Each month hold at least a very short meeting in each shop, on some subject determined by the Executive Board
7. Play union songs over the loud speaker before and after each union meeting.
8. Show a movie (from Education Department) during a period of each union meeting. Allow time for a brief discussion of the movie.
9. Attempt to get free time on local radio and TV stations to tell the union story.
10. Distribute JUSTICE to key people in the community.
11. Sponsor a contest, with a prize, for the best photograph or drawing of a shop or union activity.
12. Sponsor an essay contest for children of ILGWU members, and give a prize for the best essay on "why my mother or father belongs to the union".
13. Offer a class in family problems for union members.
14. If your local cannot afford to offer classes alone, pitch in with other ILGWU locals in the area and organize an area education council which could sponsor classes.
15. Hold an exhibit in the local union hall (or a community building of hobby activities of ILGWU members.
16. Sponsor a lecture series on community problems jointly, with the Teachers Union or other labor organization or community organization.
17. Start shop chairman training program.
18. Give each shop chairman a guide to union and basic duties, and a brief analysis of the applicable Unemployment and Workmen's Compensation laws.
19. Organize a Health and Safety Committee in your local union.

20. Require classes for local union officers after they are elected.

21. Special leaflets and bulletins for your members when important legislation is pending in Congress or the state legislature.

22. Representation from your local union on the boards or community agencies.

23. Sponsor an exhibit at the county fair.

24. Present a speaker on "what unions are about" to the graduating Class of the local high schools.

25. Joint meetings between your executive board and the ministers in your communities (teacher-service clubs), PTA's, etc.

26. Send students to ILGWU summer institutes.

27. Organize a week-end institute for shop chairmen at your local union headquarters.

28. Decorate your union hall with ILGWU posters.

29. Put up a mural (painting or photograph) in your union hall, on wage-earners' subject.

30. Sponsor a drop-in center for retired workers.

31. Cooperate with other community agencies to set up a Teenage Canteen.

32. Sponsor a Boy Scout or Brownie group.

33. Collective buying contract to get savings for union members on their purchases.

34. A locally sponsored radio and TV program.

35. Credit union.

36. Blood bank.

37. Cooperate with local health agencies to get members (and their children) immunized, X-rayed, etc.

38. Sick and Welfare Committee to visit the sick and bereaved.

39. Union Counselling program.

40. An aid fund for needy members.

41. Recreation program with activities for people of all ages.

42. Local union library, or a joint program with the community library.

43. Put posters in public places.

44. Attractive union hall, with a union banner, American flag and a supervising Union Hall Committee.

45. Method for publicizing progress on grievance appeals.

46. Union-wide discussions on contract changes before and during negotiations.

47. An effective collective program to raise voluntary funds for political action and education.

48. Use small group discussion methods at your local union meeting.

49. Assign someone to make sure every new person is welcomed and made to feel at home at union meetings. (Meeting's host).

50. Short social programs (coffee after each union meeting).

51. Exhibit of union made products especially products made by IIGWU members, at local occasions, shops and union hall.

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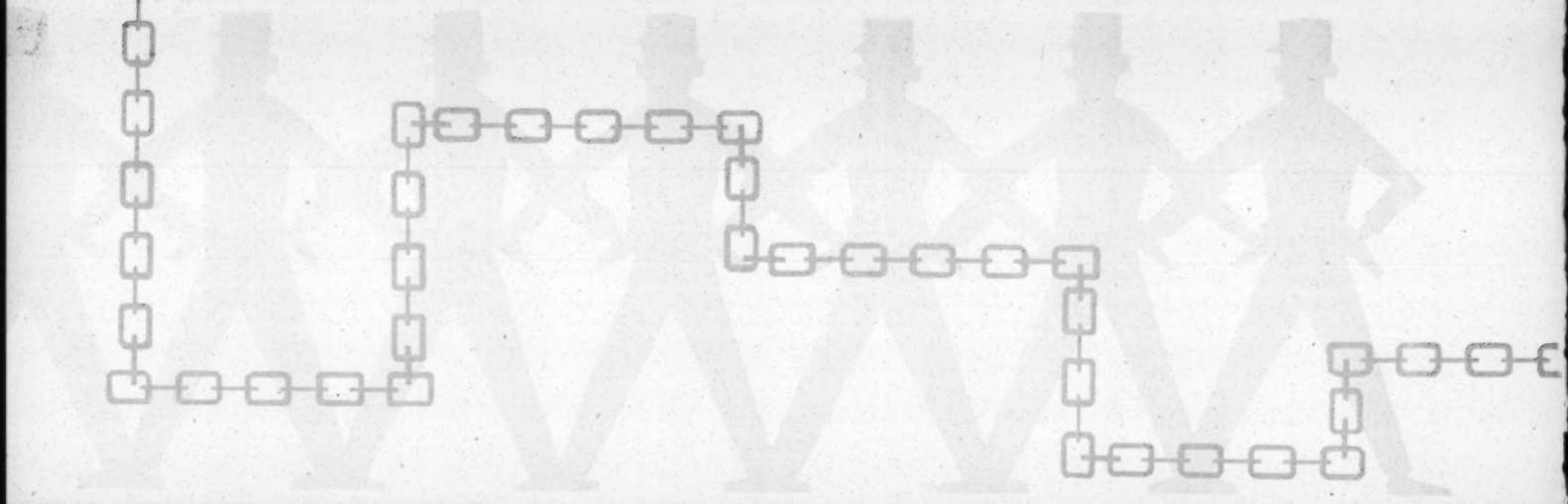
Convincing the Non-Union Member In your Plant—Tips for Organizing



When the term organizing the unorganized is used, the "unorganized" are thought of, generally, as those workers who are outside any established collective bargaining relationship. Such workers do constitute the bulk of the unorganized in this country.

In addition, however, there are large numbers of workers, actually part of bargaining units for which unions have collective bargaining recognition, who are still in the unorganized category.

Their hours, wages, fringe benefits and general working conditions are determined by union-management negotiation. Their seniority rights are defined by union contract; they are protected against arbitrary supervisory decisions by the same instrumentality. They enjoy all the rights and benefits won by the union members with whom they work.

Yet they do not belong to the union. They are still unorganized. They are the free riders.

In these particular unorganized workers, unions have a potential large enough to warrant special attention. Indeed, in those areas where traditional union security provisions are denied by state laws, the organizing of these workers is of major importance.

It is timely that this article should be issued now. It contains excellent suggestions for internal organizing. I recommend it to every union official and member interested in the growth of his own union and the continued advance of the trade union movement.

JOHN LIVINGSTON,
Director of Organization, AFL-CIO

Sign Up the Free Riders

"Free riders" have always been a headache to union members. They're the workers in a plant who don't join the union although they enjoy the benefits of the union contract. In recent years they've been an increasingly grave problem, especially in the South, because of the combination of the Taft-Hartley Act and state "right-to-work" laws.

These laws have put unions in a vise. They force unions to represent everyone in the bargaining unit and yet outlaw the union shop. In effect, the laws tell people they can have union protection even if they don't pay for it. That just doesn't make sense. Someone has to pay for it.

Each nonmember is a stumbling block to a union. The record shows unions win better contracts where membership is high. Where membership is strong, unions can handle grievances with better results than where membership is weak. There is a definite connection between membership strength and good working conditions.

The only thing to do, as long as these anti-union laws are on the books, is to try to sign everybody up. This is a local union job. Stewards and officers of each local must develop and carry through their own organizing drive. They must create the feeling that union membership is expected of everyone in the bargaining unit.

Use the checklist on page 7 to find out how your local measures up in its organizing activities and to get ideas for signing up nonmembers.

The backbone of organizing, of course, is the day-to-day contact of stewards and workers on the job. In addition, there are a number of techniques that can be useful to create interest in a special organizing drive. These include sign-up days, gate checks, house calls, and membership contests.

The local executive board and the

This article is based on material originally developed by the Textile Workers Union of America.

PAGINATION INCORRECT

stewards should plan and carry out the organizing drive, laying out specific assignments and getting regular reports as the drive moves ahead. Set up a timetable and lay out specific and realistic goals in terms of the number of new members you are aiming for.

Timing is important. Drives should take place at the best psychological moment, such as at contract expiration or when a major grievance has everybody stirred up.

Make a Nonmember Card File

To help in planning, you need accurate information about your nonmembers. While it's possible simply to list them, a card file of all nonmembers in your shop is much better.

Use 3 x 5 cards. On each card there should be space for the name, address, telephone number, job title, hiring date, and department of the nonmember. Also allow space for listing dates of contacts during the drive, the name of the steward who makes the contact, and his remarks.

Analyze the Situation In Your Shop

When the card file is in good shape, see which departments are poorly organized. Concentrate on the weakest departments, but don't forget the nonmembers elsewhere.

Brief the "Organizers"

Call a briefing session for all stewards and others who are to work on

SAMPLE LETTER

Date

TO ALL.....PLANT WORKERS

Greetings:

On Friday, Sept. Local 000, AFL-CIO, will have a special sign-up day at the plant in an effort to increase union membership.

Union officers and stewards will be available in all rest rooms and locker rooms before and after shift change to accommodate nonmembers wishing to join the union.

If you are a member, you can help from now through sign-up day by talking to nonmembers and urging them to join when the day comes.

If you don't belong to the union, you should. You need the union and it needs your talent and support. No man is an island. What he does or does not do affects others.

Every nonmember hurts himself and his fellow workers by not being in the union with us. The record shows unions win better contracts and handle grievances with better results where union membership is high.

You can help yourself and your brothers and sisters in the plant by joining on sign-up day.

Fraternally,

President, Local 000, AFL-CIO

Above is a sample letter which might be used as a basis for a letter issued by your local in a "sign-up" campaign.

CHECK LIST FOR LOCALS

These questions are intended to suggest some of the activities your local might carry on in its internal organizing activities.

Your committee is urged to review them and to use them as a reminder.

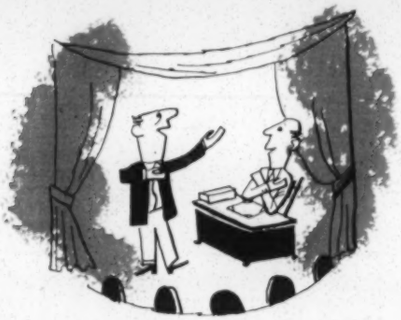
When the majority of these questions can be answered truly in the affirmative, your local's organizing program should be on its way to success.

This list is by no means final. Add to it as you see fit. The greater your activity, the greater will be your success, provided that you have properly organized that activity.

	Yes	No
1. Does your local have a nonmember card file?	___	___
2. Has your executive board enlisted the stewards in organizing work?	___	___
3. Have all stewards been briefed on the local organizing situation, and have they been given training on how to sign the nonmembers?	___	___
4. Has your local gone over its organization situation with the representative assigned to service your local?	___	___
5. Is your local properly equipped with literature for organizing?	___	___
6. Does your local contact the new worker immediately upon his or her coming to work?	___	___
7. Do the stewards contact the nonmembers regularly on the job?	___	___
8. Is each steward equipped with literature, application cards and dues deduction cards?	___	___
9. Does your local have regular stewards' meetings to discuss and plan organizing activity?	___	___
10. Does your local have sign-up days in locker rooms and in other permissible areas on company property?	___	___
11. Has your local ever tried house-calling to sign nonmembers?	___	___
12. Has your local arranged social affairs and invited the nonmembers?	___	___
13. Has your local analyzed your nonmember situation and determined where you should concentrate your efforts?	___	___
14. Has your local broken down your nonmember card file and analyzed it?	___	___
15. Has your local tried to build teams of active members for use in recruiting the nonmembers?	___	___
16. Has your local checked to see whether any stewards need help?	___	___
17. Is organizing on the agenda of every executive committee or officer meeting?	___	___
18. Does your local need a school to train your stewards?	___	___
19. Does your executive board consult with individual stewards on their problems?	___	___
20. Has your local ever tried to get any nonmembers together to talk things over?	___	___
21. Has your local tried getting your union members in the departments together at lunch or after hours to see what they can do to help get a campaign underway?	___	___

the drive. If the local can afford it, make this an off-the-job meeting. This will show the whole plant you mean business.

Make full use of the card file. Using a blackboard, spell out the situation in each department. Discuss goals and target dates.



Urge the stewards to do most of their work right on the job. Any other work, such as housecalls, sign-up days, gatechecks, etc., should be mapped as part of the overall plan.

Give each steward application and dues deduction cards. Tell them to keep these handy so they can sign the nonmember whenever they get the chance. Arm them with literature. This should include copies of your contract, materials your international prepares for new members, and "This is the AFL-CIO," published by the National AFL-CIO.

Set up a schedule of regular reports from each steward to the local president and chairman of the organizing drive.

Training Skits

There is a right and a wrong approach to nonmembers. The right approach is to be persuasive and factual. The wrong approach is to be loud or make threats.

Training should include practice sessions or skits to give workers in your drive an opportunity to try out their organizing techniques. This is like play-acting. One person takes the part of the steward, another the part of a nonmember, and in front of the whole group they act out a discussion of why a worker should join the union.

These skits should go into the use of literature, the dues deduction card, the explanation of dues and initiation fees, and the answers to questions a nonmember might ask.

Do it like this:

1. Pick two stewards, one to play the nonmember, the other the steward.
2. Explain that the steward is to talk to the nonmember just as he would to a worker in his own department.
3. The person playing the worker should be full of questions. Make sure these are the kind nonmembers might actually ask a steward or other union officer, such as:

   "What is this union you're talking about?"

   "You say the union settles grievances. The foreman told me he'd take care of any grievances I have, so why should I join the union?"

   "The foreman said the company gives wage increases and improves working conditions whenever it's necessary, so why do we need a union, anyway?"

   "OK, maybe you think you need a union. But look at me. I get the same wages and benefits you get without joining the union. So why should I join and pay dues?"

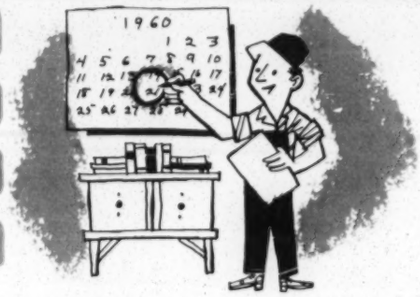
Don't drag out the skit too long. About seven to ten minutes should be enough. After the skit, ask everyone at the meeting what they think of the answers the steward gave and how these answers could be improved. Get comment on things well done and suggestions for improving the steward's arguments.

Sign-Up Days

The law says you can organize on company property on non-work time and in non-work areas. Some contracts give similar rights.

Announce specific dates as sign-up days. Get your local talent to work on posters. Don't make them controversial; have a simple design or picture plus a minimum number of words. Just say that everybody should join and that stewards and officers will be available in the rest rooms and locker rooms before and after shift change on a specific date.

Send every worker in the plant a letter a few days in advance as a reminder of the drive. Pass out leaflets to both members and nonmembers as they come into the plant on sign-up day. This should be a simple union message asking everybody to join and take an active part in the drive. A sample letter is reproduced on page 7.



On sign-up day, man each rest room and locker room with at least two officers or stewards—three or four would be better. Have them circulate among the group, asking each person if he belongs to the union. Urge the nonmembers to sign up. Some will do so just because they were asked on sign-up day.

There should be no arguments with nonmembers. The worst thing that can happen is a loud argument, giving management an excuse to interfere.

Sign-up days should not be overdone. Twice a year is enough.

Gate Checks

Several unions use this method effectively. On gate check days these unions mobilize local officers and stewards before plant gates at the start of each shift. Workers entering are asked to show their membership cards. Where the overwhelming majority are members, this puts terrific pressure on the nonmembers to join.

Like sign-up days, gate checks should be well planned. All gates must be properly manned. The more members mobilized for the effort, the greater the success will be.

Use tables at the gates to sign them up. Sturdy card tables will do. Literature and union cards should be on hand. A short leaflet to all workers, calling on them to join and support the union, can be used. Posters, carried like picket signs by some of the members, with the simple message that everybody should belong to the union, can be used to add color.

Stewards should approach the nonmembers from their own departments. Faced with a polite but public situation, some nonmembers will sign up.

Like sign-up days, the gate check can lose its effectiveness if used too often. Three or four times a year will be enough to supplement day-to-day steward activity on the job.

House Calls

House calls are very effective, since they permit direct contact and reasoned discussion. Like all other organizing activity, they must be thoroughly planned. The card file should be broken down by area. Best way is to get a map of the town and mark out areas assigned to teams.

Expenses like gasoline should be met from the local treasury. Since the local collects dues from each new member signed, the outlay involved will be more than repaid.

Each team should have two members assigned, as far as possible, to work in their own neighborhoods. But don't give them more territory than they can cover during the campaign. House-calling is slow work.

Teams should be thoroughly briefed on arguments to be used, goals of the campaign and target dates. Housecallers should be warned against getting into name-calling arguments with nonmembers. They enter each home as guests and should, above all, observe the rules of hospitality.

For training, skits like the one outlined earlier may be used. Teams should be furnished with literature and cards. Lists of nonmembers or nonmembers cards should be distributed. (Have a duplicate card file. Don't hand out your master card file. You need this for checking progress of the drive.) Arrangements should be made for regular reports.

It is often best to make appointments in advance with nonmembers. A phone call will usually do the trick. Where appointments cannot be made, go ahead anyway, even though several visits may be needed.

Telephone Campaigns

Calling nonmembers at home and discussing the problem over the phone often helps. Like house calls, such campaigns should be planned right down through the kind of persuasion to be used. Phone campaigns should not substitute for house calls, since nothing is as good as direct personal contact.

Contests and Competition

There is no substitute for the competitive spirit. By stimulating competition and channelling it properly, much can be done to build membership.

Do this by getting the officers and stewards together for reports and comparisons. Publish the results by departments or neighborhoods.

Contests help. Set up a drive for a certain period and announce a contest with prizes—a bond, a dinner for the winners, a week at a union summer school, an all-expense weekend at a nearby resort, or some other prize within the means of the local.

Contests can be in several parts. A prize for the steward who does the best job, a prize for the member who does the best job, a prize for the most successful housecalling team, etc.

These contests should be of a definite length . . . a month, six weeks or whatever the situation requires. At least two membership meetings should be planned during the contest period, one to announce the drive and explain it in full detail, and one about midway to give detailed reports.

Social Programs

Social activity in your local can be an effective device. Here are some suggestions:

1. Small social gatherings or parties to which you can invite key nonmembers and have "man to man" talks with them.
2. A dance to which you can invite free all nonmembers who sign dues deduction cards.
3. A party or dinner for which the charge is nominal and to which you can invite the nonmembers, using this as a recruiting device.

4. A picnic or outing, in which you invite all members and non-members to participate.

Cash Incentives

You can take a cue from industry by developing an incentive plan of your own. Many locals have had good results when they paid stewards a nominal sum, say $1, for each new member signed up. Money paid as commissions is recovered with the first month's dues, so it's a good investment.

Initiate New Members

At the end of your campaign, be sure to have initiation ceremonies at a local meeting for the new members you've signed up. Many internationals prepare materials for use by new members. Write to your own international for these.

The Organizer Goes to Simpsonville, USA

An IAM Great Lakes Region organizing conference, October, 1959, devoted one session to mapping out an organizing campaign at a mythical plant.

Conference participants were divided into groups of ten, and then given the descriptive material below concerning the plant, its owners, the community, plant workers, history of past organizing endeavors, and a resume of the working conditions.

On the basis of the facts presented, the groups devised their campaigns in broad outline, suggesting points for emphasis, techniques for dealing with the problems implied, proposing subjects for organizing leaflets, blocking out areas for which additional information was needed, pinpointing pitfalls foreshadowed by the outline.

The campaigns then were described by each group chairman, the first report being given in full with successive reports being confined to differing approaches or ideas not advanced previously.

Following a spirited discussion of the reports a summary of the reports and the discussion was made by the conference leaders.

A CASE STUDY

Simpsonville, USA, is a town of 40,000, the county seat of Omer County in the middle of America's heartland. The population is made up mostly of sturdy farmers and ex-farmers, church-going and conservative. After the war, an important machine-tool plant was built, employing 800. It is called the Cornbelt Machine Tool Company and is a wholly-owned subsidiary of a larger firm in the east, the Sharp Machine Tool Company, which is unionized.

Since it is the only industry around of any size, except for a fertilizer plant and some grain-milling, its wages are higher than most rates in the area. It is considered a desirable place to work, and even has a waiting list of job applicants. The company has what would be called an "enlightened" personnel policy, and puts out a house organ that always contains the latest bowling scores and pictures of the biggest fish caught over the weekends.

Some workers from an industrial area 200 miles away have been hired into certain semi-skilled and skilled jobs which the company apparently could not fill locally. A group of these are interested in an organizing drive. The organizer, Don Drysdale, asked them to get a small group of union sympathizers together (people they were sure of) to discuss the possibilities of organization.

Eight persons showed up at the motel—two of them refugees from Autoville, an industrial city to the north, four workers who were born and raised in the area, a woman from the shipping department, and an office worker who was also a native. The first two wanted a "hard-hitting campaign to wake this sleepy burg up."

"These wages stink," one of them said. "I get $1.70 for the same job that paid $2.20 in Autoville. Let's get a copy of those rates in the east and blast them with it."

(Don didn't say so, but he already had the rates from the east. They averaged 15 cents higher than Cornbelt in most job classifications. As he was able to reconstruct them from the discussion, the rates at Cornbelt ranged from $1.30 base to $2.40 top skilled, with a concentration at the lower end of the scale.)

One of the local workers said: "The company is making a lot of changes. People are worried. They don't know what will happen next. Just last week ten people in my department were shifted out of their jobs because of new equipment. They're doing odd jobs around the plant now at the base rate."

The office worker also talked about changes the company was making. They had recently brought in some IBM equipment that had displaced a number of clerks. He said he thought they could get "quite a few" people to sign union cards.

The conversation rambled on, with each one in turn voicing the reasons for his dissatisfaction. Four of the workers came from one department, Production, where the superintendent was a bull-of-the-woods type and had never heard of the "human relations" approach. One had a brother-in-law who had been laid off recently when the company consolidated several operations. The woman commented several times about the unsanitary conditions in the "rest rooms," as she called them.

Don was able to pick up some information in the course of the discussion. The company had laid off about 200 workers in the recession two years ago, keeping the highest skilled workers who could cover most of the jobs in the plant. Most of these workers had been rehired by now, however, although the company did not take them all back. Employment had come back to the previous level and production had increased about 20%.

The first thing we'd better do, said one, is to answer this letter the company put out, brandishing a copy in the air. The organizer asked to see it. It was the usual soothing syrup of the professional industrial relations man but his trained eye picked up a sentence or two that flashed like neon signs.

"The company is reviewing its wage structure with an eye to possible upward adjustments in the interests of fairness and in accordance with our progressive policy of always being in the lead but these of course are dependent upon our having flexibility in the operation of our plants."

The final sentence also caught his eye. "We hope that our present fine relations with our employees will continue so that the expansion of our great company can take place here. Cordially yours, Emerson Spaulding, President." Apparently the word is already out, he thought.

"Well, when do we get this show on the road?" said one of the eager beavers. "Give me some cards and let's get moving."

"Not just yet," the organizer said. "I want to think about this a little bit. Meanwhile, stay under cover. The company knows something already and it's too early to show yourselves. I'll be in touch with you soon."

DISCUSSION GUIDE

Based on what you already know about this plant, and about present conditions, consider the following questions:

1. Is there anything you would not do, at least until you had further information? Give reasons in each case.
2. Specifically, what information would you want to get about this situation in the next few days and why would you want it? List it in the order of its importance to you.
3. Do you have any hunches about a theme that this campaign might have? If so, state the theme and give the evidence from the case study that supports the validity of this approach.
4. What points brought out in the case study, in your opinion, would make a poor basis for an organizational appeal? Why?
5. If you can project the campaign that far, what kind of campaign literature would you want for a start and what point would you make? Be as specific as you can.
6. What specific assignments would you give the members of this committee?

Films for Organizing

LOCAL 100. 32 min. Produced by National Film Board of Canada. Rental $3.00.

A foreman fires a man. This starts action by a group of workers to organize a union. An organizer comes out from union headquarters to assist. There are committee meetings in a worker's home. A union is organized and a contract signed.

ORGANIZING BEGINS AT HOME. Color. 16 min. Produced by AFL-CIO. Rental $2.00.

Series of slides with sound put on 16 mm sound film. Prepared for the AFL-CIO Organizing Department Conferences. Useful with local union (voluntary) organizing committees, or with full-time staff organizers as a basis for discussing house calls.

DUES AND THE UNION. 17 min. Produced by National Film Board of Canada. Rental $2.50.

A skilled tradesman, and old-timer in his local, takes a young pipe fitter in hand and shows him the importance of union dues and the services derived from them.

Educational Department, ILGWU
1710 Broadway
New York 19, New York

GETTING EDUCATION UNDER WAY

Every local union of the International Ladies' Garment Workers' Union should have an educational committee. It is however easier to say that a local union should have a committee than to maintain one.

There are varying kinds of locals with as many difficulties in establishing an education committee. These range all the way from local unions having no education program, and no functioning educational committee, to locals having both a functioning educational committee and a full time educational director.

You might think that each of these locals would need a separate kind of handbook, but when you think about the problems all of them are trying to solve, the basic questions that have to be answered turn out to be the same whether the local has 25,000 members or only 100 members.

Each local has the problem of:

First, what is the Education Committee supposed to do?

Second, how do you enlist people for service on the Education Committee?

Third, what is the best way of doing what it is supposed to do?

Specifically, a local Union Education Committee will find that its chief problems boil down to:

a) Making sure that the local union members are using all the facilities, resources and help that are theirs as members of the ILGWU.

b) Organizing, promoting, and sponsoring training programs to help the local union officers, executive board members and chairmen to be as effective as possible in the performance of their duties.

c) Working out ways to get information and ideas to the members of the union, so that as wage earners and as citizens they act in their own best interest.

d) Encouraging any kind of activity which takes advantage of the fact that the union enables people to work together and to supply themselves with articles or services they couldn't otherwise get, or at a lower price than would be available otherwise.

e) Encouraging and supporting information programs designed to give the people in the union an accurate picture of union activities.

Thus, good examples of helping union members make use of all the union assistance they are entitled to would be:

a) Seeing to it that all chairmen and executive board members receive all pertinent publications and information material.

b) Helping to insure that each member receives JUSTICE.

c) Supporting efforts to get a good union counselling program going.

d) Making sure that use is made of the union's research and engineering facilities when they are needed.

e) Getting everyone in the shop to understand how to deal with a grievance.

f) An Education Committee might promote the training of officers by making the shop chairmen's meeting a continuing shop chairmen's-training program.

g) Organizing a special officers' training institute after each local union election.

h) Getting the local to send a specified number of properly selected student delegates to the ILGWU summer institutes.

i) Sponsoring programs designed to train local union people in teaching methods so they can lead local union discussions and classes with the help of the Education Department.

j) Taking part in community or local union week-end institutes. Distributing pamphlets and paper-back books that deal with union problems to union officers and executive board members.

Getting information to members might be carried on in a number of ways:

1) Giving members notice of meetings by posting notices on the union bulletin boards.

2) Getting a local union newspaper started.

3) Preparing and distributing leaflets.

4) Presenting educational programs and films at membership meetings.

5) Supplying shop chairmen with notes and facts to pass along to the people in their shop.

6) Organizing an initiation program for new members.

Good examples of membership service programs which have been started (but not continued by the education committee) are:

1) Collective buying programs.

2) Sponsorship of children's and family classes and activities.

3) Blood bank, credit union, co-operatives.

The best way a local union education committee can get information about the union out into the community would be to help get a Public Relations Committee operating, under supervision of the local manager. Actually, few ILGWU local unions have advanced this far. Most typical activities of this kind are:

a) Exhibits at the county fair.

b) Distribution of JUSTICE and other union publications to key people in the community.

c) Organization of Citizens' Committees during important union campaigns.

d) Joint activities with ministers, teachers and other professional people in the community.

e) Participation in Labor Day parades, and participation in other community celebrations.

Finding people to work on an education committee seems most often to be a most baffling problem. It is a problem that can be solved, but not by any automatic formula. Working in a union successfully means that you must work among people successfully, and despite what the advertisements on how to succeed overnight say, there is no scientific technique for manipulating people.

In general, however, most organizations get things started and grow in the same way.

Originally, a small group of people assume responsibility for organizing the activity. Then these people, after they have gotten their activity moving, recruit other people to do specific jobs.

Once a person has done one successful job for the education committee he usually ends up on the committee. After a while, within the committee, responsibility moves over from the original organizers to the new people. Then the committee is on its own.

This means that if a local does not have an education committee it will be up to the Executive Board to organize a committee out of their numbers. Then the new education committee can begin to recruit additional people from among the shop chairmen and the members.

The important principle, however, is not to ask the people you are organizing to join the education committee. Rather, ask each person to do a particular job for you.

You will find that in most cases anyone who is active in the union, or who has said he wanted to be, will be happy to work with the education committee to get a specific job done.

Many unions have looked for possible candidates for the education committee by distributing questionaires in the shop or at union meetings. This is a good way to advertise the education committee's existence, but a better way to find people is by getting the co-operation of the Executive Board members, or members of the committee and the shop chairmen. Have them locate likely candidates, but the president of the local should ask them to accept the assignment. In any local the president is an important person to whom most people are reluctant to say no.

Once you have a new person working on the education committee, make sure his first assignments can be accomplished. If they need help in getting their work done, see that help is given. The surest way to discourage a person is to load him with an assignment he can't do.

The situation with most local unions is that there is an education committee which wants advice on how to begin to move more effectively. Here basic administrative principles apply. First, the education committee should devote a series of meetings to a discussion of what needs to be done. Given the goals of the local union and the responsibilities of the education committee, what projects should be undertaken? Shop chairmen program? Teacher-training program? Local union newspaper? Credit union? Classes in public speaking and parliamentary law? Clean up and paint the local union hall? Health and Safety Committee?

As a guiding rule, your education committee should attempt to have two kinds of projects going at the same time:

Start easy, simple projects that can be done and finished with. For example, a mailing of a particular pamphlet to the community. Or a distribution of a particular leaflet in the shop. Or the exhibition of a movie at the union meeting. At the same time, your committee should choose an undertaking that continues over a period of time, classes, or a radio program, or a shop chairmen or teacher or officer training program.

The idea is that the continuing project will give your committee continuity. The short projects will give you a sense of getting ~~things~~ things done.

In any event, your committee should start off by listing the projects that need to be done.

When you have produced an exhaustive list, go back over the projects and decide which ones are most important. Then go over this priority list to decide honestly which ones you really can do, given your resources, your experience, and the money available.

The most important thing a committee starting up should bear in mind is that you must not expect failure. Success on your first project gives every one the drive and encouragement needed to continue. Failure on a first project is like frost on an early crop; the bud blighted and there is no fruit.

Before the education committee can start on a project, however, it must get the approval and support of the Executive Board and the membership of the local.

Thus, as soon as the committee decides on a program it should be presented for approval to the Executive Board. With the approval, the committee will also get cooperation from the union leaders. Once projects are decided upon, assignments should be handed out with time limits on them.

Someone should be in complete charge of each job. His responsibility, among other things, will be to follow through to see that assignments are done, and to help when they are not getting done (help, not take over).

The committee itself should keep an eye on all projects, get regular reports, and come in with support when the work slows down.

Ordinarily most projects undertaken by the committee come to an end when their goals are reached. Then the sub-committee responsible for this success winds up its activities.

Some activities, however, go on as long as the local exists. A newspaper, or a credit union, for example. In these cases, the sub-committee which gets these activities started would eventually grow up and become a committee by itself. In this sense, the education committee becomes a hothouse for forcing new committees into existence.

Continuing education committees, if they are to do their work well, need to know what they have accomplished, and where they are going.

This means the education committee should always have a long-range plan (one that projects for at least six months into the future - perhaps a year).

Then, at least once a month, there should be a short discussion which is in fact an inventory. Is work progressing on the plan as you had hoped? If not, why not? Is there something you need and don't have? Is there anything you can do to begin to move on schedule?

In asking and answering these questions, you may not get to where you started out to go, but you will get somewhere you do want to go. It might turn out, for example, that your first plans were not feasible. The monthly inventory in this case will ring a warning for you and get you back on the tracks.

In summary then, to get an education committee going productively:

1) meet and list all the projects that ought to be undertaken.

2) assign priorities.

3) select projects that you know you can do.

4) be sure to include easy, quick projects along with long range projects.

5) be sure that the projects you decide on fit into a planned program you have set for yourselves.

6) clear the program you worked out with both the the Executive Board of the local and with the membership meeting.

7)once you begin to work on the project, check it; back it up with support to be sure it succeeds.

8) at least, make a monthly inventory of what you have done to see if you are making progress and to find out why not, if there has been no progress.

9) let sub-committees working on continuing projects be constituted as separate committees.

10) report back regularly on your progress to both the Executive Board and the membership meeting. In your reports be sure that everyone gets credit, and as many people as possible get a chance to report (share the credit).

ILGWU education committees do not have to work barehanded.

They can get the support and advice of the Education Department.

They can use films from the ILGWU film division.

There are discussion outlines and pamphlets available from the Education Department for their use on most union subjects.

There is a mimeographed handbook they can use to guide them in getting out leaflets and to use as a source for drawings.

They can call on the universities, the public library, the State Agricultural Extension Service, and public and non-profit agencies for help.

There are institutes such as this one which they can get training and advice, and where they can trade experiences with other union people engaged in the same undertakings.

They have their own brains, and imagination and dedication to guide them, which are their most valuable resources.

And in everything they undertake they will have the support, the sympathy and most often the active cooperation of the other people in the local union.

oeiu:153/eb
7/29/58

SCHOOL FOR WORKERS
UNIVERSITY OF WISCONSIN

WORKING WITH NEW MEMBERS

Today's new member is the future active member, steward or local officer - or just a card carrier, critic and problem. Even in the all-union shop, there is a problem: workers must join the union but this fact does not guarantee understanding and participation. Sometimes special problems, such as a feeling of resentment, come from the fact that the worker must join the union.

New members must be made to feel that joining the union is important to them and to the union, that the union is interested in their welfare and that their welfare depends on their own activity in the union. Officers and older members must make it evident that they welcome the new members into the organization.

ONE APPROACH:

1. A welcoming letter sent to the worker's home - such a letter could include a welcome, the fact that the union is responsible for the wages and conditions now in the shop, the information that the worker should bring his problems to the union, the name of the worker's steward, and the signature of the local president. The sending of this letter can become a routine in the case of all new members.

2. Have the steward keep an eye on the new member - introduce him to workers, find his interests, explain the grievance procedure, invite him to meetings and perhaps arrange to take him to one or two meetings. If there is no formal initiation ceremony, the steward can present the new worker with his union card and a copy of the by-laws and contract with an explanation of what they are. This type of program could be spread over a period of time and it could be developed as standard procedure in the case of each new member.

A MORE AMBITIOUS PROGRAM:

1. Follow the above suggestions with regard to the welcoming letter and supervision by the steward.

2. Give the new member a feeling of importance - and of the importance of the fact of joining - by a full-fledged initiation ceremony:

   - have the steward or older member pick up and deliver the new member to the meeting

   - make sure the new member is made welcome, and not lost in the back row

- conduct a simple but meaningful swearing-in ceremony, with perhaps the presentation of the union card, contract and by-laws

- perhaps have a short welcoming speech by a union officer or representative

- serve refreshments (this might bring out some older members too)

- such ceremonies could be held on a regular schedule, or as often as necessary, to avoid excessive conflict with the regular business of the local

3. Send union literature to the new member's home:

   - leaflets and pamphlets discussing the work of the union and the labor movement (DUES and PROGRESS leaflets)

   - include a covering letter, and don't send too much at one time

   - this can be developed as a standard procedure with some effort at follow up to give the new member the impression that he is expected to read the material

4. Send individual invitations to meetings to new members for the first three or four meetings

5. Establish some form of "buddy system" according to which each new member is assigned to an older member who is responsible for his education in union affairs and in getting him to meetings.

6. Show union films at meetings where new members are initiated.

7. Run classes for new members at regular intervals or when there are enough new members to make a class worthwhile.

Suggested outline for two session new members' class:

1st session: Introduction (welcome by local president, explanation of the sessions, stress value of questions and discussion, have each member introduce self); The Union We Belong To (the local - who belongs, when and why organized, how it works, dues and how spent; the national union - why have one, size, number of locals, how it works, history and accomplishments, main job ahead; how related to the parent federation)

2nd session: How The Union Protects You In The Shop (steward system, grievance procedure); Your Rights Under The Contract (wages, hours, transfers, seniority, vacations, holidays, insurance, etc.); The Union Outside The Shop (meetings, recreation and education program, political action, community service); There's A Place For You (how the new member can fit into the union program); Conclusion (democratic nature of the union, the need for participation)

Printed and mimeographed leaflets and summaries and be distributed as they fit in. (DUES, PROGRESS, By-Laws, Contract, diagram of grievance procedure, etc.)

A union film could be shown at each session,and discussed.

PREPARING THE CASE
Public Employee Unions

I. Questioning the Employee

- The employee's name, department, shift, job, rate, seniority, address, phone number.

- Are there other employees involved? Names?

- Name of supervisor, plus names of other management people who may be involved.

- What are the circumstances: what happened or failed to happen?

  a. What did supervision do? Are there witnesses if needed?
  b. What did management fail to do? Witnesses?
  c. What did management say, and who said it? Witnesses?

- When did it happen (shift, date and hour if needed)?

- What does the worker say about his previous record?

  a. General performances on the job?
  b. Previous discipline record (similar or different cases)?
  c. Attendance record?
  d. Attitude (has supervision made this an issue in past)?
  e. Union activity (is supervision using a pretext to "punish" a union active?)
  f. Other grievances filed in past?

II. Information from other Sources

- What rule(s), ordinances, or agreed to policies apply? What section?

- Do union records show similar cases in the past?

- Should you check with other stewards or union officers on how to proceed in this case?

- Should you check with other workers (same shift, other shifts, departments)?

- Should you take a look at the job, materials, working conditions?

- Should you ask the worker to keep records, (amount of work, down time, unavoidable delays, time spent in washroom, times late, etc.)?

- Should you ask supervision for records or statements (to see if there is a case, to add facts, to check one member of management against others)??

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THE INFORMATION WHICH SHOULD GO INTO A GRIEVANCE OR COMPLAINT
Public Employee Unions

The Circumstances - the Facts

Who is involved: the employee(s), the steward, the supervisor

What happened to the employee - or, what failed to happen?

Where did the occurrence take place - shop, department, section, etc.?

When did it occur - date, shift, time of day?

The Union's Contention

What does the Union believe should have been done, or should not have been done under the circumstances, and in accordance with what rules, ordinances, or policies?

Note: You may not always want to cite the exact section of an ordinance or rule; when you specify, you may limit the area for argument; sometimes it is helpful to be in a position to argue the whole problem.

The Request for Settlement

What action the Union wants management to take: always remember the importance of being specific in your request for settlement, starting with what you consider to be a proper and just settlement -- and don't forget the matter of retroactivity in cases involving pay.

How much to write: a well written grievance need not be long or complicated. Simply state the situation and what you think should be done. Support for your contention can come when you discuss the case with supervision. Any effort to write a complete description may still result in something being left out, and may provide supervision with ideas it may not otherwise think of.

WHERE TO GET THE FACTS

1. From the worker or workers involved - check their facts, however.
2. From employees in the same department on same or different shifts.
3. From workers in other departments related to operation involved in complaint.
4. From agreements, rules and ordinances.
5. From past practices, settled grievances and civil service hearings.
6. From management - how accurate their information is depends upon experience and the facts of the case - check their facts too!

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IS THERE A GRIEVANCE?

Public Employee Unions

1. To test for the presence of a grievance, ask yourself these questions:

   - Have accepted working rules or ordinances been violated?
   - Has some "past practice" or precedent been violated?
   - Has the worker been treated unfairly?

   If the answer to one or more of these questions is "yes", you probably have a grievance.

2. Does a particular rule have to be violated in order for a grievance to exist?

   - Not necessarily. Many rules or sections of ordinances have such general language in them that they lend themselves to a broad interpretation - and the steward should make every effort to interpret them broadly.
   - Past practice and precedents may cover cases not covered by a specific rule.
   - New situations not covered by a past agreement may arise and be handled through the regular grievance procedure.

3. Workers who feel abused but for whom there seems to be no relief under existing rules or past practice present a problem; these situations require a diplomatic approach so that the workers do not feel that the union can do nothing for them - the situation must be explained in a way which will keep them close to the union, and ready to bring their next problem to the steward.

   Here are some suggestions:

   - Apply the tests noted in (1) above.
   - Check for errors in facts submitted by the worker.
   - Check to determine if the problem may not be based on a dispute between workers, rather than with supervision.
   - If you are pretty sure that there is no grievance, go over the results of your investigation with the worker, point out the consequences of taking up cases without merit and if needed, take the worker with you as you consult with the chief steward, local officer, or union staff representative.

   But if there is a real doubt as to whether or not a grievance exists, THE BENEFIT OF THE DOUBT GOES TO THE WORKER.

SUGGESTIONS FOR PRESENTING THE GRIEVANCE
Public Employee Unions

THE PROBLEM OF DEALING WITH HUMAN BEINGS

1. No two people are the same; approach each person as an individual. This applies to union members and management officials alike.

2. The steward is after results that will benefit the worker and the group as a whole; he must submerge personal likes, dislikes, fears and prejudices.

SOME POINTS TO REMEMBER WHEN PRESENTING THE CASE

1. Prepare the case beforehand!

   - have your facts down in writing.

   - have notes organized to guide your presentation.

   - anticipate management's argument and have answers ready.

   - make an effort to talk to the worker or workers alone before you meet the supervisor.

   - talk the case over, if necessary, with other stewards, your committeeman, or others who might help you.

2. Avoid arguments among union people in the presence of supervision.

   - if you have a difference of opinion during a meeting, take a recess and iron the problem out in private; present a united front to management.

3. Keep to the point - avoid getting led off on side issues by supervision.

4. Get the main point of management's argument.

   - try to narrow the area of difference between union and management.

   - try to pin supervision down on why it did what it did, or failed to do what it should have done.

5. Avoid getting excited.

6. Treat those in supervision as you would like to be treated.

   - let any break in good relations come first from the other side.

   - remember that the supervisor to whom you are speaking is not always personally responsible for the complaint or grievance; therefore, you may get less cooperation from him by trying to place the blame on his shoulders.

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7. Avoid unnecessary delays.

   - if supervision asks for more time, try to determine whether it is an attempt to stall or is based on a sincere desire for more facts needed to settle the case.

   - remember, the more time that passes, the "cooler" the grievance becomes, and the less support you will get from the worker or workers involved.

   - the longer the complaint or grievance is tied up by the company, the more difficult it will be for the union to gather and remember the facts and merits of the case.

   - the more grievances that are piled up in the procedure, the more likely that management will try to "horsetrade" settlement of a few grievances for dropping of others.

8. Settle the grievances at the lowest possible step of the grievance machinery - but make sure they are properly settled.

   - this saves time.

   - it helps build better relations in the department.

   - the steward will feel like the vital part of the union that he is.

   - don't pass the buck - if you can settle the grievance in the first step, do so.

9. Avoid bluffing - it is only a matter of time until your bluff is called; it is in the long run wiser to develop a reputation for honesty.

10. Maintain your position on a grievance until proven wrong.

11. See that your job benefits and conditions are lived up to.

   - if the union has not complained about similar violations of rules or past practices before, why should the management give in now?

   - the best rules and agreements have no value if the workers and stewards do not require supervision to live up to their terms.

13 possible

Tabulation Sheet

GRIEVANCE HANDLING QUESTIONNAIRE FOR PUBLIC EMPLOYEES

Listed below are a number of problems in handling grievances that may exist where you work or they may not. Put a check in the column that most accurately expresses the way you size up the particular problem. If the problem comes up often or frequently put a check in the column headed "frequent". If it comes up rarely check the column headed "sometimes". If it hasn't come up, check the "never" column. If you're uncertain, or you don't know, check the "no opinion" column.

PROBLEM	Frequent	Sometimes	Never	No Opinion
1. Grievances from characters, wise guys and troublemakers.	0	4	2	7
2. Members bypass the steward and go directly to a supervisor.	3	6	1	3
3. Grievances arising out of personal problems of workers in the department.	1	9	0	3
4. Employee expects too much from the steward.	1	3	4	3
5. It's difficult getting workers to file a grievance.	12	1	0	0
6. It's difficult getting the real facts about a complaint.	4	8	0	1
7. Employee is afraid to file a grievance.	10	3	0	0
8. It's difficult getting the grievance in writing.	11	2	0	0
9. Employee makes back-door deals with a supervisor.	1	0	4	8
10. Seniority grievances.	2	5	3	3
11. Work load grievances.	4	5	0	4
12. Wage rate cases.	4	2	3	4
13. Discipline grievances.	4	3	2	3

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PROBLEM	Frequent	Sometimes	Never	No Opinion
14. Grievances involving an incentive system	0	2	3	8
15. Workers think they'll do better by dealing directly with supervisors.	2	5	3	3
✓ 16. Member doesn't know the civil service rules and grievance procedure.	12	1	0	0
✓ 17. New steward doesn't know the routine.	10	3	0	0
18. Getting people to serve as stewards.	3	5	1	4
19. The steward is too aggressive.	0	1	5	7
20. Steward is too timid.	5	4	0	4
21. Steward doesn't have the authority to settle cases with the supervisor.	3	2	3	5
✓ 22. Steward is bypassed. (to union officer?)	8	4	1	0
23. Stewards work hardest for people they like.	1	4	2	6
✓ 24. Steward has too many things to do.	2	1	2	8
25. Steward doesn't get enough credit for his work.	5	4	1	3
26. Supervisors gun for the steward.	0	3	4	6
meaning? 27. Steward goes out looking for grievances.	0	0	7	6
meaning? 28. Steward tries to keep grievances down.	0	5	2	7
29. Steward can't separate real grievances from imaginary grievances.	1	6	2	4
✓ 30. Steward doesn't know how to present his case to management.	5	4	2	2

PROBLEM	Frequent	Sometimes	Never	No Opinion
31. Steward doesn't know the grievance procedure and civil service rules.	9	4	0	0
32. Steward doesn't get a lot of the important information.	7	6	0	0
33. Steward doesn't know how to tell an employee he or she doesn't have a grievance.	3	5	1	4
34. Supervisors don't have the authority to settle grievances.	3	5	2	3
35. Supervisors are not interested in settling grievances in the first step.	5	1	1	6
36. Supervisors have a policy of stalling on settlement of grievances.	4	4	2	3
37. Supervisors deliberately try to take grievances to the last step or to the civil service commission.	1	1	4	7
38. Top supervisor interferes in the settlement of grievances in the first two steps.	0	5	3	5
39. Supervisors are inconsistent in the way they settle grievances.	4	5	0	4
40. Supervisors try to discourage workers from taking grievances to the Union.	2	7	2	1
41. Supervisors try to make a straw boss out of the steward.	0	2	3	8
42. Supervisors quickly promote a sharp steward.	0	0	5	8
43. The grievance machinery is too complicated.	1	3	5	3
44. Union politics and fights between groups interfere with handling of grievances.	2	6	2	3
45. Vague civil service rules create grievances.	3	6	2	2
46. Old-time stewards don't want to file grievances.	0	5	3	5

#1

GRIEVANCE HANDLING QUESTIONNAIRE FOR PUBLIC EMPLOYEES

Listed below are a number of problems in handling grievances that may exist where you work or they may not. Put a check in the column that most accurately expresses the way you size up the particular problem. If the problem comes up often or frequently put a check in the column headed "frequent". If it comes up rarely check the column headed "sometimes". If it hasn't come up, check the "never" column. If you're uncertain, or you don't know, check the "no opinion" column.

PROBLEM	Frequent	Sometimes	Never	No Opinion
1. Grievances from characters, wise guys and troublemakers.			X	
2. Members bypass the steward and go directly to a supervisor.		X		
3. Grievances arising out of personal problems of workers in the department.		X		
4. Employee expects too much from the steward.		X		
5. It's difficult getting workers to file a grievance.	X			
6. It's difficult getting the real facts about a complaint.		X		
7. Employee is afraid to file a grievance.	X			
8. It's difficult getting the grievance in writing.	X			
9. Employee makes back-door deals with a supervisor.				X
10. Seniority grievances.		X		
11. Work load grievances.		X		
12. Wage rate cases.			X	
13. Discipline grievances.		X		

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PROBLEM	Frequent	Sometimes	Never	No Opinion
14. Grievances involving an incentive system			X	
15. Workers think they'll do better by dealing directly with supervisors.		X		
16. Member doesn't know the civil service rules and grievance procedure.	X			
17. New steward doesn't know the routine.		X		
18. Getting people to serve as stewards.		X		
19. The steward is too aggressive.		X		
20. Steward is too timid.	X			
21. Steward doesn't have the authority to settle cases with the supervisor.		X		
22. Steward is bypassed.		X		
23. Stewards work hardest for people they like.			X	
24. Steward has too many things to do.	X			
25. Steward doesn't get enough credit for his work.	X			
26. Supervisors gun for the steward.		X		
27. Steward goes out looking for grievances.			X	
28. Steward tries to keep grievances down.		X		
29. Steward can't separate real grievances from imaginary grievances.		X		
30. Steward doesn't know how to present his case to management.		X		

PROBLEM	Frequent	Sometimes	Never	No Opinion
31. Steward doesn't know the grievance procedure and civil service rules.		X		
32. Steward doesn't get a lot of the important information.	X			
33. Steward doesn't know how to tell an employee he or she doesn't have a grievance.		X		
34. Supervisors don't have the authority to settle grievances.	X			
35. Supervisors are not interested in settling grievances in the first step.	X			
36. Supervisors have a policy of stalling on settlement of grievances.	X			
37. Supervisors deliberately try to take grievances to the last step or to the civil service commission.			X	
38. Top supervisor interferes in the settlement of grievances in the first two steps.		X		
39. Supervisors are inconsistent in the way they settle grievances.		X		
40. Supervisors try to discourage workers from taking grievances to the Union.		X		
41. Supervisors try to make a straw boss out of the steward.				X
42. Supervisors quickly promote a sharp steward.				X
43. The grievance machinery is too complicated.			X	
44. Union politics and fights between groups interfere with handling of grievances.			X	
45. Vague civil service rules create grievances.		X		
46. Old-time stewards don't want to file grievances.				X

Shift priority case

Public Employees

You are working as a Clerk Typist I in a county institution on the first shift. Your supervisor says that not so many people are needed on the first shift but another person is needed on the second shift. You are told to move to that shift. This doesn't seem fair to you so you complain to your steward.

(Tell the steward the above facts in your own words. If he asks you the right questions give him the information below.)

Other employees in your group in the same classification have more seniority than you do. However, there is one temporary employee who is also a clerk typist I. The temporary person was already working in the department when you were hired. Your question now is: Shouldn't permanent workers have some preference in shift choice over temporary workers?

(Separate sheet of paper)

Disposition of shift priority case

In August of 1964 a new policy was announced giving permanent workers a shift preference over temporary workers even if temporary had been employed longer(e.g. in case of rplacement for person on armed services leave). Previously, management had argued that "employee" meant just that and there were no distinctions for such matters as shift preference

PROCEDURE FOR HANDLING EMPLOYEE PROBLEMS

Is this understood as grievance — mgt.?

Any employee in the classified service of the University who feels aggrieved or has a personnel problem, may present his problem to university authorities through the established grievance procedure and shall not be discriminated against on that account. The same procedure shall be followed by a group of employees presenting a joint grievance. Any employee, or group of employees, who are members of a union, may, if they desire, be represented by representatives of their union or representatives of any affiliated body. They may enter into the Proceedings under Step I, 1 and 2; Step II, 1, 2 and 3.

Step I

A. A personnel problem, or a charge of unfair treatment by an employee, shall not be considered a grievance until:

1. First, the matter complained of shall have been discussed by the employee with his supervisor. If they have been unable to reach a mutually satisfactory settlement within one working day after such discussion, and

2. Second, the matter complained of shall have been reviewed jointly by the employee concerned, the supervisor and the department head, and they have been unable to reach a mutually satisfactory settlement of the complaint within two working days after such discussion.

Disadvantage to employee
Role of Rep.
Definition of grievance

Step II

A. A personnel problem or a charge of unfair treatment which has not been settled under the procedure outlined in Step I, shall be submitted to the university authorities in writing as a grievance in the following manner:

1. First, a copy of the grievance, on forms prepared for such purpose by the university, and signed by the aggrieved employee, shall be sent to each of the following:

   The employee's supervisor
   The employee's department head
   The University Personnel Office

Forms?

2. The aggrieved employee shall discuss the written grievance jointly with the employee's supervisor, department head, and the University Personnel Office.

3. Third, in the event a mutually satisfactory settlement cannot be reached within five days after such discussion, the grievance shall be promptly referred by the University Personnel Office to the University Vice President of Business and Finance, together with all papers, documents, and other information relating thereto, for settlement.

Clerk
AFSCME
113 Person
Bldg
119 Mechanics
are
Medical

K of C
Union
Students
etc.

*

Look to see how are Sense as Substance — Rules of Personnel Bd; State Statutes; 9/18.05 & P. 5 of handbook & 16.275 of State Statutes — UW Handbook — Past practices

Step III

A. In the event a mutually satisfactory settlement cannot be reached within five working days after the discussion provided for in the third part of Step II, the aggrieved employee may file an appeal to the state bureau of personnel, or the personnel board, in accordance with the statutes relating to employees in the classified service and the civil service rules made pursuant thereto.

B. In order to protect the statutory appeal rights of the aggrieved employee, any employee grievance arising out of circumstances covered by section 16.24 of the statutes relating to removals, suspensions, discharges, reductions, dismissals and layoffs, which has been submitted to the university under this grievance procedure may be appealed to the personnel board by the aggrieved employee, at any time within 10 days following the effective date of the action of the employing officer.

Special Procedure — Timing

C. In order to protect the appeal rights of an aggrieved employee, any employee grievance arising out of the reallocation of a position under Rule V, (2), Civil Service Law and Rules, Bureau of Personnel, which has been submitted to the university under this grievance Procedure, may be appealed to the personnel board at any time within 15 days from the date of notification of such reallocation.

DUTIES OF THE STEWARD

Public Employee Unions

1. KNOW THE GRIEVANCE PROCEDURE AND CIVIL SERVICE RULES

- What they say, what they mean, and how they work.
- Examine them in the light of his experience with them and be ready to recommend changes, with the reasons (documented, if possible) for the proposed changes.

Too broad?

2. KNOW THE DEPARTMENT

- The various operations and how they relate to department's work.
- Seniority standings and other details pertaining to the area of the steward's jurisdiction.

3. KNOW THE WORKERS

- Relative seniority standings, wage rates, individual problems, individual abilities, family background and interests.
- Recognize the differences between workers as human beings and be prepared to deal with each worker in the way which will bring the best results.

4. KNOW THE MOST EFFECTIVE WAYS OF REPRESENTING MEMBERS BEFORE SUPERVISION.

- Remember that the steward is the representative of the workers and is not an impartial umpire, or a straw-boss on behalf of supervision.
- Be able to interview aggrieved workers, prepare notes on the case, write grievances, present the case, follow up on the results.

5. BE A UNION MEMBER IN THE FULLEST SENSE OF THE WORD

- Remember that the steward is often THE UNION to workers in the department.
- Learn about the history and methods and goals of his union and the labor movement and keep up-to-date on local and national developments.
- Introduce new members to the history, business and operation of the union.
- Sign up new workers and explain the union to them.
- Keep members informed of what is going on.
- Urge attendance at meetings and do everything possible to get the members to turn out.
- Develop full participation in the union's program among the workers under his jurisdiction.
- Help develop thought and discussion at union meetings.
- Assist in carrying out the majority decisions of the membership.
- Help to interpret the union's program to the community.

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for [illegible] AFSCME Dist Council 448 one of Suburbs.

Cudahy has adopted all but ¶ "d" under part 4.

The union proposes the following grievance procedures:

In any organization, it is almost inevitable that occasional misunderstandings, difficulties and disagreements concerning conditions of employment will arise between employees and their supervisors. These situations usually are referred to as grievances, and it is hereby declared to be the policy of the City of Cudahy to assure its employees of an opportunity for orderly presentation and adjustment of their complaints. The purpose of this procedure is to maintain harmonious relationship between the City of Cudahy and its employees, to promote morale, equal rights, wellbeing and security of employees.

1. The provisions of this section shall be applicable to all employees in the bargaining unit.

2. The Employee shall have the right to present grievances, the right to be represented by his union representative or any other agent he shall select and the right to be heard; in so doing, the employee shall be assured freedom from restraint, interference, discrimination and reprisal.

3. Officials at all levels shall receive and act promptly and fairly upon employee grievances.

4. The following procedure is hereby established to handle employee grievances.

   a. Any employee expressing a grievance of any nature may individually or in company with his union representative explain the situation orally to his immediate supervisor. The supervisor will reach a decision and communicate it orally to the employee and his union representative within two (2) days after receipt of the grievance.

   b. If a grievance is not settled in step "a", the employee and/or his union representative will report the grievance orally to the Director of Public Works. The Director of Public Works shall reach a decision and communicate his decision within two (2) days orally to the employee and his union representative. (This step may also be implemented by submission of a written grievance and, in such case, will require written reply from the Director of Public Works within five (5) days.

c. If a grievance is not settled in step "b", the employee and/or his union representative will report the grievance in writing to the Civil Service Commission. The Commission shall hold hearings and notify all interested parties of its decision within ten (10) days after receipt of the grievance communication.

d. If a grievance is not settled in step "c", the employee and/or his union representative may move the grievance to arbitration either through the services of the Wisconsin Employment Relations Board or pursuant to the present rules of the voluntary labor arbitration tribunal of the American Arbitration Association, for final decision. Expenses of arbitration which are jointly incurred shall be shared equally by the parties, except that neither party sha shall be required to pay any part of the cost of a stenographic record without its consent.

5. In the event it is not possible to comply with the time limits within the procedure because of work schedules, illness, vacations, etc., these limits may be extended by mutual consent Whenever possible, grievances will be handled during the regularly scheduled working hours of the parties involved.

6. Supplies of the required grievance forms will be prepared and distributed by the Department of Public Works.

AFSCME # 82 — 4th Session

8 or 9 sessions — pro — con
Time — Mid-May

Summary

1.

2.

3.

Getting Committee members
Work of Com.

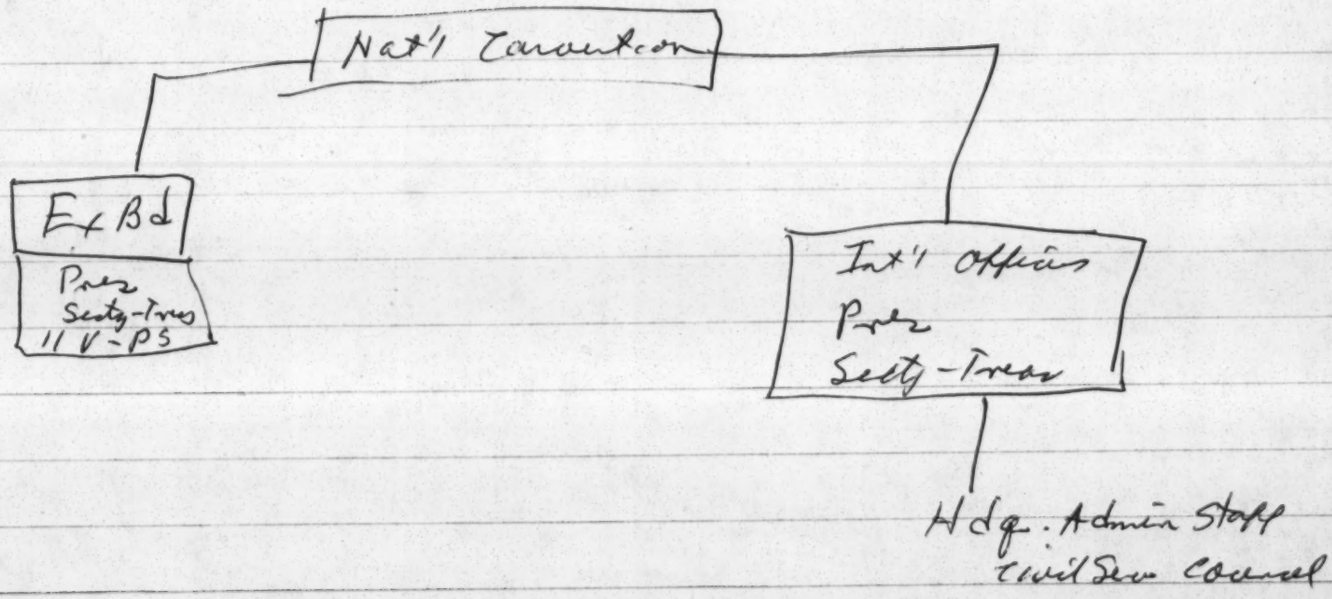
Membership Committee

1936 – Separate AFSCME Chartered
100 Locals 13,000 members

Today 2,000 Locals 225,000

AFL - CIO Structure

AFSCME Structure



Starting Time: 7:00 (?) — on Time
Inv. Brotslaw —

INTRODUCTIONS
Self — Sponsorship — Voc Sch. Local S+W
Class
Subject: Union Admin — grievance handling
Procedure: Informal — mixed media
Breaks at 8:00

Tonight — general comments — History
Union Structure
Info from groups on local structure, problems

History
Early origins

Econ growth — changing union forms

National Feds

AFSCME
1932 — Wis State Admin, Clerical, Fiscal & Technical Employees Assn.
— WSEA (1933) Zander & other
Concern that Civil Service would be attacked & substituted by spoils
1933 — attempt to abolish Civ. Serv. was made.
Worked with Unions

1935 — 32 delegates, 12 locals formed AFSCME
under AFGE under AFL

IV Uncover New "Resources" to Assist you.

"Internal" ?

A. Among the members – we have discussed

B. New Techniques – discussed some

e.g. Committees, planning, discussion

C. Film Catalogues

U.W. – AFL-CIO

D. Pamphlets

AFL-CIO Nat'l Union

E. Public Library

Reference librarian

F. Ed. Dept. of Nat'l Union

FF – ~~[illegible]~~

IWA – Harvey Yancy (Alex)

Pulp – (Res.) Doug Kuhns

G. STATE AFL-CIO

Com. Serv. – COPE

H. S & W.

I Indiv. prob's & teacher

Planning Groups.

Education Committee

Membership Committee

Organizing (?)

Executive Board

Grievance Committee

AFSCME

1) Advisory group to Ex. Bd & Officers on membership meetings

2) Education Committee — pamphlets

3) Membership — Organizing — Read Booklet
New Member
Visitation

#1

WHAT DO WE WANT FROM MEMBERS

Participation

1. GIVE LEADERS BACKING
2. BACK ONE ANOTHER
3. HARMONY WITHIN DEPARTMENT — Perhaps Union & Mgt.
4. STOP STARTING RUMORS
5. ~~So~~ DONT COMPLAIN TO OTHERS - COME TO MEETING
6. A LITTLE BETTER ATTENDANCE

#2

WHAT MEMBERS WANT FROM UNION

1. IMPROVED WAGES & CONDITIONS — Legis. Lab Mgt Bd.
2. GOOD REPRESENT~~ATIVES~~ATIONS ON GRIEVENCES — Union Training
3. GOOD LEADERSHIP — ~~Union Officers~~ Union — Training — Expectations
4. → INTERESTING MEETINGS - PROGRAMS — Ex. Com.
5. MONTHLY BULLETINS ABOUT ACTIVITIES — Com.
6. NOTIFICATION OF JOB ~~CLASSIFICATION~~ & OR OPENINGS — Spec. Com. (?) + Lab-Mgt Bd.

#3

WHAT CAN UNION DO FOR MEMBERS

1. DENOTE DUTIES BY JOB DESCRIPTION SETUP WITH MANAGEMENT — Spec. Com. Lab-Mgt Bd.
2. STRIVE FOR RELIEF CREW SETUP FOR VACATION, SICK LEAVE
3. FACILITIES FOR DRESSING ROOMS, LUNCH, LAV'S FOR WORKING PERSONNEL
4. EXECUTIVE BOARD MEMBERS TO ATTEND MEMBERSHIP MEETINGS
5. LEGISLATIVE REPORT - BY WISCONSIN LEGISLATOR
6. ~~So~~ FIRST AID FACILITES FOR PERSONNEL

Problems for discussion at business meeting
Special order of business
"buzz groups"

Allow for "role-playing" artificiality - differences between locals, etc.

Buzz, Planning Groups

1. One Group Act as Gen'l Ex. Bd.
2. Education Committee
3. Political Education Com.
4. Membership Committee

2 - reports as needed

Active

Less Active

Tips - for Program planning

General Aims

Why needed

To whom directed

What specific things to be tried

What Assistance is needed

skills, information

Realistic for your groups

Electing Local Union Officers (Cont

Va, N.C., S.C., Ga Fla.
Ala. Tenn, Miss, La,
Ark, Tex., Ky,

Structure of Local

Offices
Ex Bd — Ex. Committee
Trustees
Committees

Size of Local — potential?

What does Union do

What should it do

Meetings

Other Activities

Stewards Problems (Questionaire?)

Programs

Topics? — relate to Union Relations
special interest to members

length — 15-15 (talk — discussion)

resources — Union leaders, Univ., Community leaders

planning

Ed Com & film.

how & when to use

prepare Speaker for groups

know your speaker — preview the film etc.

Uses of Pol. Proc.

1) Why this committee

2) Kinds of activities which would help the local within jurisdiction of your town.

3) Plan — 6 mos — 12 mos.

4) What specifically will town do or cause to be done.

5) How will you recruit people to help out.

6) What kind of continuing relations with local Ex Bd, officers.

Education

Evaluate Stewards

are they listening to members

Willing to talk to mgt.

Know the Admin-Code

Responsibility for organizing
(work in with Com).

Periodic Stewards meeting.

Ed. member & non members — Special meetings or benefits of Union

---

Membership

Welcome all new personnel

Social events — 2/yr.

Bulletin Bds in each b/dg.

Questionnaire on transp. to meetings etc.

Phone

Personal Contact

Home Prop.

Pl. to Contact on job

Newsletter

Contact people at home

Advisory Com. on Local Meetg

Start on time

Identify nonvoices fully (already do it)

Explain motions — whoever moves

Encourage discussion on the <u>floor</u>

Only one person talks at a time

Time limits — but not too technical

Name tags + dept. — get to know each other

Stern & Hayglad —

Don't take route of cheap labor —
Can't beat out other sectors —

University
Social cost — human factor
U. Agricultural research

Better teachers —
math — Science — relate humanities —
L to deal with
Technology —
to keep a larger % of youth
out of work force and in education
Research —
manpower & retraining studies
to assist national policy, to
assist Vocational School planning —

Lab. Ed — Coll. Barg.
Worker protection through Coll. Barg.

Concentration of economic power?

Summary

Historical Development } more "dem." arrangements in the work place

Public Policy

AFSCME

AFL-CIO Structure

AFSCME Structure

Local Structure

Problems

Existing Committees

Grievance (Ex. Bd.)

Lab-Mgt Bd (in process)

Good & Welfare

Entertainment.

Paperwork (?)

Main Problems

Grievance Handling

Organizing

Participation

Other Problems

Relation to Civil Service

Law & admin –

Participation in passage

Knowledge of law

Participation in policy affecting working conditions

Salary inequities rel to wage employees.

Adequate job description & mgt. abide by them

Get: 30 "Prospective Union Member File Card"
[Contact Card]

Role playing:

Signing up

Attend meeting

"Criticize" Literature from Nat'l, WSEA

And what material is needed —

Brief History?

State Insurance Bd head —

AFL-CIO Stewards Manual

Steve Clark

Membership 1/64 83 — 1/65 139 members in one year

150 (3/65)

✓ Objectivity

✓ Duties of the Steward

✓ Review Questionnaire

FEAR

Need to Understand

Procedure — Basic Rights (Civ. Serv. & Agreement)

Legal protections

Well handled grievances

Repeat "Wins"

Union leaders' manner with Supervision

You Teach Mgt.

Last Session Start here

Why Formalize Procedure: [Reduces Possibility of Conflicts in decisions]; tends to assure proper authority for Actions; Understandable; [Fairness - above board];

next step [Orderliness];

U-W-M Procedure

Is there a grievance

Mary & Jane

Record Keeping — Evaluation

Time element — early Settlement

Tends to stabilize facts.

Did this [Maternity leave — Law — Admin Code — UW Handbook

Information into a Complaint

Change of classification case

Miss Friendly —

competent able — Steno II

daily administrative work

program planning — } advanced work for
handling teams } 2 yrs ahead

Excellent work record

Supervisor in report is glowing but
fails to "grade" I, II, III, IV

Job studied by personnel office —
No doubt should be Administrative Secty
2 steps jump.

Supervisor will not recommend —

grievance?
What if employee will not fill (Personal relations in small group job situation)
Should upper level union intervene with higher supervision
for sensible and humane solution)

Last session

Why Formalize

Don't rely on sheets alone

Requirements of good Procedure

UW-M Procedure

What's needed
Practice
getting facts
Conferring
Presenting
Deferring of grievance

Officers — Negotiating
"Bargaining"

Is There a Grievance
Mary - Jane

Info into grievance

Preparing the case

Presenting the grievance

Practice With grievances

Special Problems

Notes

Don't by-pass stewards
develop them

11:50

14
31
45

Presentation

1. Know what you are to argue

2. Friendly (doesn't have to be glad hand)

3. Firm — but no bull

4. Simple & Direct

5. Don't get divided

6. Brief the Worker.

7. Nail down loose ends
"time" "yes or no"

Summary

What union must do — should do.

Structure of Unions

Beginnings of participation — Formal / Informal

meetings - committees - grievances - dues - voting

talk in plant — reading union news { Bull. Bd. / Union paper / Com. paper

Begins to get into topic for tonight: Leader Member relations

And relation of leaders & members to "Organization"

1st: Kinds of members

Leaders

Actives

Crisis Actives

Inactives

* What do we want from members? Realistic goals

Assent vs. Participation

* What do members want from Union? Satisfaction vs. participation

* Why did members join — buzz

need for support — and for new goals.

2nd Kinds of Leaders

(Several ways of looking)

Charismatic
personality

Ideolgical
Unch-hgt coop

Operator
12 mos. politician

Administrator
functional

Collectical
move away from individual

} not discrete types

Autocratic

Democratic

"Shared leadership

5th week

Committee planning

Details

Involvement

Cross checking

Review quickly one other kind of Com.

A membership Committee

1. New Members — memo sheet
2. Visitation
   Sick — general (Sheet already handed out)
3. Non-Union (organizing — understanding)
4. Increase meeting attendance
   general announcements — Serve
   but goal of "5" per month

Needed:

[And clear vision of goals (partly spelled out below)]

Process & Purpose — Authority to act

Participation — 3-5 people willing to give it a try

Mailing list

Phone list

Process — Budget for post cards

Memeographing notices

expense

Travel on Visits

Interpretation & Process — Cooperation with

Program

Ed. Com.

Recreation — socials, etc.

Pres. & Ex Bd. — Program

Stewards — Notices

Clark

S-471
Retirement System -

A-486
Cross the board Salary increase
Safeguard (if S-172 fails?)

S-172 - State to pick up retirement share
4% up to 4800 (or 5600 if Soc. Sec. goes up
& then 7% over 4800

Shaffer (D) } Longevity bill
Barry (R.) } $1,200,000 cost

S-161 Health Insurance — State pick up half of premium on all K's

A-272 Night differential — one step of passage in Assembly & then went to Jt. Finance -
Not a union bill, but they joined in support -

S-59 Dept of Admin - Authority for semi-monthly pay passed both houses - awaits govt. sig.
How to implement —

Dept of Admin booklet —

1965-67 proposed Salary ~~wages~~ —
Magazine Covers including Short comings
for permanent employ~~ment~~ (2 yrs or less)
put at

Seniority
- Shift preference
- Upgrading (prestige - money?)

Work load
- Too big an area
- Insufficient help
  - Relief help.

Leave of absence
- Discretion of dept. heads - not by code
  - Maternity leave
  - Sick leave.

Favoritism
- Work load
- assignments (better jobs)

Working Conditions
- Physical
  - Faulty equipment - unsafe
  - Insufficient equipment

Untrained operator

Violation of job description
- BMH II
- Driving truck, shoveling, supervising, Hack tops, Lib. Acct. Documents Craftsmen - shoveling

Lack of respect by "superiors" "supervisors"
- Faculty
- Intermediate Supervision

—over—

Stewards —

Lawyer
Diplomat
Politician
Sympathizer
Honest
Analyst

Mediator
Arbitrator
Counselor
Spokesman
(Negotiator)

~~Compromeur~~
~~non partisan~~
Representative

Representative
1. Members to Supervision.
2. Union to Supervision.
3. Union to the members.
4. Members to the Union.

Materials
Bring Procedures
Bring Admin. Code —

Questionaire

20 copies

Importance of Bargaining in Work situation

Reference to history — earlier in class

grievance handling a form of bargaining
importance to conditions

importance in human terms

Role of Steward
Arb — Med — Rep

8th meeting

Objectivity — chalk & eye

Duties of Steward.

Is there a grievance

Kinds of Leaders
Principles of Leadership
Meeting

MEETING

Sum

Physical Setting — place, comfort, atmosphere
What wanted from meeting — aim it that way (A)
Summarize sheet (A)
Time — length — start on time

What do we want from meeting — see next page

"Dual loyalty" — the union edge re subordinate — employer relationship
Understanding participation
To build strength & spirit
To accomplish goals of local
To provide advance warning of trouble spots.

Communication → Variety — Persistence — System
use mass and individual Techniques

(No one way succeeds — get others to help — test your ideas for effectiveness)

Stress communication
NOTICES — News Clips — etc on Bulletin Bd.
Post, Cards letters, Informational material — mail
Items in Community paper, Radio, TV.
Notices or Info by special leaflet distribution
dues, pol., proc., grievance proc, vote
The Meeting itself
Informal in plant — Stewards system
— Representation

Elements of effective union communication

Idea or message
Put into clear language
Form of publication
Understanding by officers & stewards
Records where needed
files, etc.

Follow-up.

Evaluation of result
how many came — increased understanding, etc?
What went wrong —

~~Second Attempt — & model~~ —

See Next sheet

2/11/65

Summary — The meeting

Look at the physical surroundings

make pleasant, clean, attractive

Right Time — Day

Length of meeting

Orderliness — AGENDA (for all) & Planning

{ Balance between "efficiency" and participation
{ The proper use of parl. procedure.

→ Change the pace

break up lengthy reports — more than one person

let executive bd. members do some of reporting instead of all by pres.

{ Evaluate communications
brief them

{ Let some matters be discussed by smaller groups — in buzz sessions

Don't take the meeting for granted

Special programs —

Later * Communication — variety, persistence, system —

Use mass and individual techniques —

Further topics

Committees

planning

Community & Public Relations

Discussion techniques

(3) (A)

What do we want from meeting?

Communication — transmit info from offices
build support for policies
knock rumors

Affirm acts of offices

Escape valve for irritants

Socializing

building esprit de corps

Participation, per se.

Self-interest of members is served

Level of communication
Understandable — brief — interesting { of interest / interestingly presented

Participation
committee reports
reading of long communications
crises

Small vs. large locals
(Long haul — not one-shot cures)

To improve

[Clear reports, announcements, minutes

Short —

Plan

Encourage (plan) participation — (meaningful)

Emphasize social

Special meetings [speakers, films / issues]

Departmental meetings } taking union to members sheet

Individual grievances vs. general concerns

*

Elaboration

Also See Tannenbaum's Steward's System report.

Methods of Communication

Notices — clips (from AFL-CIO News or Special Bulletin) or Int'l Paper

Local union newspaper

Community paper, radio, TV,

Union meeting

Stewards —
As representatives

See Tannenbaum study on Stewards as communication officers

Special leaflet distribution — Several per year
Info —
Sign of life —

dues — parl. proc. — grievance proc —

Register to vote —

Where responsibility is it for meeting the problems that have been raised — leaders — that who recognize the problem

Principles of democratic leadership

Union Admin. — Participation

What can we expect — Realistic
Who are the members — age, sex, interests
other responsibilities

Kinds of members
Leaders
Actives
Crisis actives
Inactives

Leadership: Autocratic — Democratic — Shared!

What do we want from members?
Buzz (Group 1)

What do members want from Union?
Buzz (Group 2)

(Group 3) what can union do for members

OVER

Can we put together a program from these two?

Participation in class {50% overt in 2½ Seminar
100% in buzz groups}

Who can give performance criteria —
Union — a committee — asis? — or new structure
Mgt

What will it take?
information
policy formation
Organization
specific tasks

Introduction — Registration — Cards, Notebooks

Self — School off Wks —

Course Sponsorship — Voc. School — USWA

To the Course:

Subjects — Duties, grievance procedures, K's, handling grievances, Stewards Role in Union and Community, Understanding Unions.

Method of the Course —

Informal — Discussion —

Materials (read, fill out)

No grading or "testing"

Questionaire — ON Back (other Problems)

Number in Corner & on N.B.

Purpose — to aid in pin pointing problems

[EV — look at registrations]

~~25~~ 27

(2) Importance of Steward's Role

Background of Labor movement

Statistics — Structure — history

Meaning for industrial Society —

250 — Nat'l Unions — ? 150
2,500 — Intermediate Bodies
75,000 — Local Unions
130,000 — Collective Barg. K's.

18.5 M members

└ 13.5 M in AFL-CIO

Structure AFL-CIO

History — (How old)

Small beginnings — industrial development

forms of Unions — Local, City Feds, Nat'l Federations

Movements of Protest and defense
Economic — Political — Social

Legal developments —

Pub — Gov. — Civil Service — WSEA — 1952
Wis. Law 1959, 1962

Meaning for industrial Society —

individual protection in large scale economic enterprise —

Seen in 2 main ways

1) "democracy" in the work place and thereby a changed industrial system (cf. pre-union or non-union to union)

2) Protection of worker in human terms — safe conditions, restore job,

Investigator
Policeman

Role of the Steward

Arbitrator — Representative

Objectivity — a chalk

Rep. as Communicator
union to members
members to Mang.
union to Mang.
Members to union

Final Return — Any Problems re Cause, See me — let's make it go.

Contact?

On Time

What is Grievance —

(?) History of Union — See notes

(?)

Unions

Procedures — check names sheet from local —

Civil Service Rules

Signing up new members — new members at mgt. orientation meetings

(?) Check grievance questionnaire for pub. employees —

Kinds of grievances —

Stewards System —

Union Administration

Structure of local

officers — ex. Bd — ex. com.

Committees [Legis, Women Comp., Ed., Social, Membership, Safety]

Stewards [By-laws]

What areas, depts., how many people

Size of local — no. of members; potential members —

What does Union do —

What should it do?

Let's look at work of a Committee
Political Education

Planning
Calendar
Blocking out general areas of interest
& relate to timing
Vote Campaigns
State, National, Local elections
Legislation
General political issues

Phases of work — the possibilities
Mobilization
Education
Action
} Interrelation
How much & when

Outlining Specific jobs.
1st the possibilities
2nd what you want to do this year

Committees – 3

The Chairman

How to approach

You have to ask — not a general call for volunteers, but a personal, high-level approach.

No Negatives: e.g. "Can't get anyone else" "Not much of a job" But don't oversell

Be able to say what job is

Stress importance of committee's work to local

But show that its work is possible containable —

Be ready to offer help, suggestions, and to approach others to serve with chairman.

Expect performance

Give recognition and praise when deserved — start with committees already in operation

Explain the reach of responsibility

Budget available

To whom to "report"

Local & Committee must know that officers support it.

* [Don't automatically avoid the "quiet" member
Be willing to bring people along.

~~Show importance of Committee to local~~

Committees – 2

How to get Committees to work

First — Planning can go a long way
Pres. & Ex Bd.

Long-run — Budget as plan tool
Short run

What Committees are <u>needed</u>
Survey of possible chairmen
Jobs that reasonably can be expected to be accomplished.
<u>When</u> is committee's work needed
Can budget be provided?
Who will Coordinate? Supervise?
Possible V-P role; or split work with Pres. — Chairmen on Ex. Bd.? — "Coordinating Meetings" of <u>Chairmen</u>

Second — The chairman

<u>Discuss</u>

Desirable qualities
Knowledge of Union (but this can grow)
Interest in special work of Committee
Able to talk & work with others (Small group)
Sense of responsibility to local & to proper procedures
Willingness to read, to think
Ability to come up with ideas &/or to get them from others

Not always the guy who makes motion
Take Time — appoint later if no rush or if approval not needed

Break (By subject interest Ed. Com.

Have class work one in groups what general aim.
To whom directed
What specific things would he need
What orientation needed
Skills or info.
What resources — staff, stew, members, staff, Ed, Ed. a period other com.

Back to

Define goals
Where to start
Improve meetings — Improve attendance
Improve internal communication
Community relations — Bargaining goals, etc
Educate members — Train stewards

Don't over-appoint
Number of Committees
Number of people on Committees

Building block approach
Make a start
Plan
Continue

Film catalogue UW AFL-CIO
Pamphlets
AFL-CIO Ed.
Nat'l Union

Who follows through
Coordination
Tell membership Com.
of meeting Program

Ed. Dir.
Becky Osowald — FF
Harry Young — CWA

Pulp
Doug Kubas (Rep.)

PARTIAL CURE FOR FEAR

1. EXPLAIN GRIEVANCE PROCEDURE
   MEETINGS — BULLETIN BOARDS —
   Hand out sheet — Relate to K

2) Educate on basic rights under
   the Contract — your just due.

3) Describe Legal protections against
   discrimination, individual bargains,

4) Handle grievances well
   Train & recognize Stewards
   Dealing with member — build "Understanding"

5) Stewards & Officers "Manner" with
   Supervisors and Company

6) Publicity ("quiet") to Settlements

7) Apply procedures fairly

Why Formalize — Recognize differences

1) Builds "understandable" rules

2) Let's member know what the steps are
A method of telling his rights

3) AN ORDERLY WAY to settle differences
"No Knockdowns, just go to next step"

4) ALLOWS FOR RECORD KEEPING

5) PROVIDES EARLY SETTLEMENT — but removes "immediate" from "combatants", if necessary

6) "Guarantees" fairness

7) Allows for Evaluation of Grievance HANDLING

ELEMENTS —

PROCEDURE & Arbitration — CONTRACT — STEWARDS

STEWARDS ~~System~~ Meeting (~~organization~~) — Writing — Records — Files

~~ARBITRATION~~ — EDUCATION — EVALUATION

How you use System will in large measure determine How Company will use it — Fairness, Firmness, Timeliness,

Remember Notice

The Class in Stewards Training

meets on Thursday, Oct.

Discipline by withholding pay case

Public Employees

You are a clerk keeping very important records. You have made some mistakes. Your supervisor tells you after catching one error that in the future you will be docked one hour's pay for your first mistake and a whole day's pay for three or more mistakes. Do you think that you have a grievance? Should you tell your steward about it? If you think that you should, then tell him.

Tell your steward the above facts in your own words if you think he should know about it. You can also tell him the following:

The supervisor wrote out the arrangement for docking and had you sign it as a kind of an agreement.

(separate sheet)

Disposition of Discipline by withholding of pay case.

Procedure probably illegal. Certainly beyond scope of supervisors authority and contrary to civil service procedures. The memo which employee signed was retracted.

Hospital Shift problem

Public employees

~~The aggrieved employee~~

~~Hospital shift problem~~

You think you have a grievance because:

Single spaced

You had been working as a custodial worker ~~for ////~~ at the hospital. Your shift had been from 2:30 p.m. to 11:00 p.m. Your supervisor tells ~~//////~~ the custodial workers that the shift will be changed to 3:45 p.m. to 12:15 a.m. Something was said about this suited the work of other departments better. You now have to eat your lunch ~~now~~ at 4:00. ~~Now~~ So that you can't use the cafeteria where you have always eaten.

(The facts above, you tell your steward in your own words. ~~If he asks questions about the grievance which require more information you can tell him the following things if the~~ You may supply the following information to the steward if he asks you the right questions.)

Other employees are grumbling about the change in schedule. Most of them prefer to eat in the cafeteria. Some of them said something about bus schedule problems. There is no bus at that time of the night. This doesn't affect you because ~~////~~ you use the old jalopy. The housekeeper may have mentioned something about just trying the new schedule to see how it works. But everyone knows that the change took place because of complaints from the medical departments and so they don't think the housekeeper(your supervisor) can really change the schedule back.

Separate Sheet

Supervisors answer: Hospital Shift Problem

We will schedule everyone that we can to eat as late as possible during cafeteria hours. According to my neces ary schedules this means that all but one person can eat in the cafeteria. One person will have to eat at 4:00p.m.

Separate Sheet

Administrators Answer: Hospital Shift Problem (If facts are brought out that most employees can not make bus schedule) Just a trial. It fails. Other arrangements to be tried.

Procedure - elements - steps, reps, end pt.
System

~~Early [illegible]~~

The denial of annual increment case

May 8th
~~October 16~~

Steps

You thought you were going to get your annual increment on ~~November~~ 6.

It didn't come through. You go to your steward and ask if there is anything that he can do to help out.

Facts: Supervisor says increment is not automatic; denied because of excessive absences.

~~Dec~~ Feb 2nd

Employee was warned on or about ~~June 30,~~ orally(but remebers it) that if attendance record did not improve, increment would be denied.

Supervisor says acted fairly and within her authority.

5/1/64 11/1/64

During probationary period was absent 3 single days (10/15/63 - 4/15/64)

After probationary period absent 6 days -- four of these were coupled with days off (a serious problem in the department).
(~~4/16/64~~ - ~~xxxxxxxx~~ 6/30/64)
11/2/64 — 2/1/64 (warning)

But:
one absence only since warning on ~~June 30, 1964.~~ Feb 2nd, 1965

Supervisor denies: Then agrees to improvement (or second level) and says will grant increase as of day of settlement Nov. 15.

~~1st payday~~

Should union accept or go for retoractive.

Current reviews is after anniversary date

Employee — Edward ~~Early~~ Hoyt

Supervisor — Tom Jones

Deputy Dir. I. Will settle

62.13 (7) (
Cop pp 1151 - 1158 (How separate police & fire)

The University of Wisconsin
Extension Division
School for Workers

CHAPTER 111

EMPLOYMENT RELATIONS.

- - - - - - - - - - - -

SUBCHAPTER IV.

RIGHT OF PUBLIC EMPLOYES TO ORGANIZE OR JOIN LABOR

ORGANIZATIONS AND RELATING TO BARGAINING IN MUNICIPAL EMPLOYMENT.

111.70 Municipal employment.

(1) DEFINITIONS. When used in this section:

(a) "Municipal employer" means any city, county, village, town metropolitan sewerage district, school district or any other political subdivision of the state.

(b) "Municipal employe" means any employe of a municipal employer except city and village policemen, sheriff's deputies, and county traffic officers.

(c) "Board" means the Wisconsin employment relations board.

(2) RIGHTS OF MUNICIPAL EMPLOYES. Municipal employes shall have the right of self-organization, to affiliate with labor organizations of their own choosing and the right to be represented by labor organizations of their own choice in conferences and negotiations with their municipal employers or their representatives on questions of wages, hours and conditions of employment, and such employes shall have the right to refrain from any and all such activities.

(3) PROHIBITED PRACTICES. (a) Municipal employers, their officers and agents are prohibited from:

1. Interfering with, restraining or coercing any municipal employe in the exercise of the rights provided in sub. (2).

2. Encouraging or discouraging membership in any labor organization, employe agency, committee, association or representation plan by discrimination in regard to hiring, tenure or other terms or conditions of employment.

(b) Municipal employes individually or in concert with others are prohibited from:

1. Coercing, intimidating or interfering with municipal employes in the enjoyment of their legal rights including those set forth in sub. (2).

2. Attempting to induce a municipal employer to coerce, intimidate or interfere with a municipal employe in the enjoyment of his legal rights including those set forth in sub. (2).

(c) It is a prohibited practice for any person to do or cause to be done, on behalf of or in the interest of any municipal employer or employe, or in connection with or to influence the outcome of any controversy, as to employment relations, any act prohibited by pars. (a) and (b).

(4) POWERS OF THE BOARD. The board shall be governed by the following provisions relating to bargaining in municipal employment:

(a) Prevention of prohibited practices. Section 111.07 shall govern procedure in all cases involving prohibited practices under this subchapter.

(b) Mediation. The board may function as a mediator in disputes between municipal employes and their employers upon the request of both parties.

(d) Collective bargaining units. Whenever a question arises between a municipal employer and a labor union as to whether the union represents the employes of the employer, either the union or the municipality may petition the board to conduct an election among said employes to determine whether they desire to be represented by a labor organization. Proceedings in representation cases shall be in accordance with ss. 111.02 (6) and 111.05 insofar as applicable, except that where the board finds that a proposed unit includes a craft the board shall exclude such craft from the unit. The board shall not order an election among employes in a craft unit except on separate petition initiating representation proceedings in such craft unit.

(e) Fact finding. Fact finding may be initiated in the following circumstances: 1. If after a reasonable period of negotiation the parties are deadlocked, either party or the parties jointly may initiate fact finding; 2. Where an employer or union fails or refuses to meet and negotiate in good faith at reasonable times in a bona fide effort to arrive at a settlement.

(f) Same. Upon receipt of a petition to initiate fact finding, the board shall make an investigation and determine whether or not the condition set forth in par. (e) 1 or 2 has been met and shall certify the results of said investigation. If the certification requires that fact finding be initiated, the board shall appoint from a panel established by the board a qualified disinterested person to function as a fact finder.

(g) Same. The person appointed as fact finder may establish dates and place of hearings which shall be where feasible in the jurisdiction of the municipality involved. He shall conduct said hearings pursuant to rules established by the board. Upon request, the board shall issue subpoenas for hearings conducted by the fact finder. The fact finder may administer oaths. Upon completion of the hearings, he shall make written findings of fact and recommendations for solution of the dispute and shall cause the same to be served on the municipal employer and the union.

(h) Parties. 1. Proceedings to prevent prohibitive practices. Any labor organization or any individual affected by prohibited practices herein is a proper party to proceedings by the board to prevent such practice under this subchapter.

2. Fact finding cases. Only labor unions which have been certified as representative of the employes in the collective bargaining unit or which the employer has recognized as the representative of said employes shall be proper parties in initiating fact finding proceedings. Cost of fact finding proceedings shall be divided equally between said labor organization and the employer.

(i) Agreements. Upon the completion of negotiations with a labor organization representing a majority of the employes in a collective bargaining unit, if a settlement is reached, the employer shall reduce the same to writing either in the form of an ordinance, resolution or agreement. Such agreement may include a term for which it shall remain in effect not to exceed one year. Such agreements shall be binding on the parties only if express language to that effect is contained therein.

(j) Personnel relations in law enforcement. In any case in which a majority of the members of a police or sheriff or county traffic officer department shall petition the governing body for changes or improvements in the wages, hours or working conditions and designates a representative which may be one of the petitioners or otherwise, the procedures in pars. (e) to (g) shall apply. Such representative may be required by the board to post a cash bond in an amount determined by the board to guarantee payment of one-half of the costs of fact finding.

(k) Paragraphs (e) to (g) shall not apply to discipline or discharge cases under civil service provisions of a state or local ordinance.

(l) Nothing contained in this subchapter shall constitute a grant of the right to strike by any county or municipal employe and such strikes are hereby expressly prohibited.

(m) The board shall not initiate fact finding proceedings in any case when the municipal employer through ordinance or otherwise has established fact finding procedures substantially in compliance with this subchapter.

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Note: Subchapter IV, Sections (1), (2) and (3) was enacted by the 1959 Legislature; Section (1) (c) and Section (4) was enacted by the 1961 Legislature.

[Age As A Variable...]

AGE AS A VARIABLE IN CONFLICT WITHIN THE LOCAL UNION:

[The Conceptualization...]

The Conceptualization and Exploratory Study of a Research Problem

by

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INTRODUCTION

This paper is an exploratory study of conflict within the local union. It is divided into two parts; the first part is concerned with (1) a general discussion of conflict, (2) an analysis of the current issues which are likely to give rise to conflict, (3) an examination of the major variables in a conflict situation, and (4) an attempt to isolate and focus on age as a major variable. Certain hypotheses will be advanced relating the major variables to conflict, and particular attention will be paid to age as one of the most important variables at this time.

The second part of the paper is an attempt to test the hypotheses developed from the more general discussion of the first part; the methodology used will be a combination of questionnaires and interviews administered to some of the local union leaders attending the 1962 Summer Institute Program at the School for Workers, University of Wisconsin. Without the assistance of the faculty of the School for Workers, and the cooperation of the members of the various unions participating in the Summer Institute program this part of the study would have been impossible. This assistance and cooperation is deeply appreciated.

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PART ONE:

THEORETICAL BACKGROUND

I. General Discussion of Conflict

The concept of conflict has been given many different meanings and interpretations depending on the actual problem being studied. If the problem concerns tensions within the individual or tensions among individuals the concept then is dealt with in a social-psychological framework. In contrast, conflict in the sphere of international relations is conceived primarily in politico-economic terms. Between these two extremes conflict frequently centers around competing power groups in society, such as the conflict between labor and management, and in this case the sociological-economic interpretation tends to be the more significant. The type of struggle being studied, whether concerned with the individual in most simple terms or with large groups of people on the international scene in its most complex form (on a kind of continuum), will determine the exact meaning of the term "conflict", and will also influence the type of methodological approach used.

Conflict within a local union is a problem which lies somewhere in the middle of the continuum, perhaps being nearer to individual conflict than to international conflict. This means that we will conceptualize conflict

in sociological and economic terms. It is not intended to minimize the importance of other approaches to conflict, but merely indicates that they are not too meaningful for the purposes of this paper. The sociological approach views conflict as arising when human beings in an organization hold and are willing to strive for mutually exclusive goals.[1] Both goals may be desirable, but they cannot both prevail at the same time; if one is selected it is at the expense of the other. The economic approach views conflict as arising because a choice has to be made between competing uses of scarce resources (in the problem being considered the scarce resources may be what the employer can afford). When a choice is made this involves what is known as opportunity cost, which means that the cost of following a particular course of action is the value of the alternative which has been sacrificed.

The usefulness of the sociological-economic approach can be illustrated by the use of an example. The local union members, usually through the executive, choose to formulate demands for bargaining negotiations with management. At any one time, there is a realistic limit

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[1] J. Bernard, "The Sociological Study of Conflict" in The Nature of Conflict, UNESCO, 1957, p. 38.

as to what management is able or willing to concede. It frequently happens that the local union has to decide between a wage increase and some form of fringe benefit such as a pension plan. Both are probably desirable from the union members' point of view, but they are sometimes mutually exclusive. One group may favor a wage increase while another may favor a pension plan, and the extent to which one group achieves its goals, the other loses those it seeks to attain. This situation leads to varying degrees of conflict within the organization, and this holds true even when some sort of compromise is reached by seeking a combination of both goals. The fact that it was necessary to work out a compromise, probably through a "package" consisting of a small wage increase and a modest pension plan, indicates that conflict did exist and even though agreement has been reached, it does not mean that conflict has been eliminated; it has only been restrained for the present.

For the purposes of this paper the sociological-economic approach will be used and, more precisely, conflict will be defined as <u>any antagonism which manifests itself in a certain type of behavior most clearly seen over specific issues</u>. This definition has several important implications. The antagonism must be apparent; this eliminates any latent

conflict within the local. An example of latent conflict would be when some group of workers does not like the business agent, perhaps due to his personality. There may be tension between the group and the business agent, but unless they are motivated to specific action the conflict remains latent. This type of conflict will not be considered because of the difficulty involved in determining whether or not it actually exists, and also because of the problem of evaluating its importance.

Antagonism within the local union is most likely to manifest itself in terms of strategy. Several kinds of strategy are possible for groups which favor different goals:[2] (a) one group may withdraw from the local union by supporting a rival union; (b) one group may impose its goals on another; (c) an equilibrium may be established in which concessions are made; (d) goals may be modified so that a unity of aims becomes possible; (e) groups may assimilate to one another. However, in most cases the strategy is likely to be flexible and equilibrium is rarely permanent. The strategy employed can be most easily observed within the organization, and for this reason issues which are likely to cause antagonism will be considered in this exploratory study.

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[2] Ibid., p. 42.

In concluding the general discussion of conflict it should be noted that it is not the purpose of this paper to explore methods used to reduce conflict. In fact, the view is here taken that conflict performs a necessary function within the local union since it is a stimulant to integration within the organization; indeed, it gives flexibility which allows the adaptation to changing conditions.

II. Major Issues over which Conflict is Likely to Develop

It would be impossible to list every type of issue over which conflict may arise; only the probable major issues will be discussed. The issues arising from diversity within the local union have been classified by Barbash in this way: (1) internal union problems, (2) policies and attitudes toward management and collective bargaining problems, and (3) ideologies.[3] However, as Barbash himself has pointed out, such classification is not rigid; most issues will involve some aspect of all three areas, and there will be a good deal of overlapping between the first two categories.

Barbash says that internal union issues are the most penetrating:

> The most pervasive issues in controversy probably have to do with the management of internal union affairs. Local union members are likely to divide over: (a) contending job interests; (b) ethnic interests; (c) "ins" vs. "outs"; (d) control over the international or intermediary bodies; (e) the quality of union leadership performance.[4]

He sees collective bargaining issues as mainly centering around a "hard" vs. "soft" policy towards management.

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[3] J. Barbash, Labor's Grass Roots: A Study of the Local Union (New York: Harper 1961) p. 170.

[4] Ibid., p. 170.

Ideological issues are, at least at the present time, the least significant. These issues, it is true, may be extremely important within some locals, but as the issues primarily involve the question of Communist influence or in some cases the Activist movement within the union (or a combination of both), they can be treated as rather special cases.

These issues over which conflict is likely to arise are not new; they have probably been prevalent in the union organization for several decades. The issues related to conflict are therefore not really variables, although it is true that they will change over time. For example, ideological issues are not as significant today as they were at the end of World War II, and as the issues are defined more rigorously, more variation will be evident. In this pilot study more emphasis will be placed on collective bargaining issues. There are several reasons for following this course: (1) Due to the persistence of a fairly high level of unemployment and the question of technological change, the provisions of recent collective agreements would seem to have significance for conflict within the union. This suggests that collective bargaining problems may be a more important category today than was

implied by Barbash. (2) Some of the issues suggested by Barbash within the internal union problems category may arise originally from collective bargaining problems. For example, the quality of union leadership performance will be influenced by the agreement which the leaders are able to negotiate with management. (3) From a practical point of view, it is much easier to ask questions on specific bargaining issues than on internal union politics. Internal union politics will be considered, but it is difficult to structure questions on specific internal political relationships; this type of data is more likely to emerge from discussions in the field while conducting the pilot study.

What are the major issues in collective agreements at the present time? The dominant issues in collective agreements at the present time are strongly influenced by the general conditions in the economy and consequently:

> the leitmotiv of the contemporary industrial relations scene is expressed by one variation or another of technological change and its popular equivalent, automation.[5]

The problems of unemployment and technological change have not produced dramatic changes in the content of collective agreements; rather they have produced modifications in

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[5] J. Barbash, "The Impact Of Technology on Labor-Management Relations," in Adjustments to Technological Change, forthcoming volume of the Industrial Relations Research Association.

provisions which have been basic to agreements for many years. Seniority is an example of a fundamental collective bargaining provision; its importance today is greater than ever before, as has been shown by a recent study of four hundred representative contracts in which it was found that seniority is lacking in only 10% of contracts and in manufacturing the figure drops to 2%.[6] Most contracts have layoff provisions and layoff selection is based in part on seniority.

The recent modifications in the seniority provisions refer to the introduction and extension of transfer systems.[7] Transfer systems can take several forms, the strongest being what is known as interplant bumping rights, where an employee laid off from one plant may displace a junior employee at another plant. Interplant bumping is never conditional since there is usually a provision where, for example, a man with less than three years seniority can be bumped only by a man with more than six years seniority. It is noteworthy that in the 1961 meat packing agreements, both Swift and Armour have written transfer rights into their respective contracts. Provision for moving allowances has also been made for workers who have been laid off because of "technological change."

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[6] Union Labor Report, Bureau of National Affairs, March 1961.

[7] Transfer systems date back to 1951 in the automobile industry in Detroit, but this type of provision was rarely written into the contract. What is new is that they are now being written into contracts in several industries.

The issue over the choice between work-sharing and layoff is still prominent in such industries as the apparel industry. However, the controversy over such a choice is likely to be sharpened, for in this industry it is probable that work-sharing will not be able to completely handle the problem facing the textile industry generally.

Another provision which seems to be coming to the fore is retraining. Trade unions, particularly the craft unions, have from their early development been interested in training. They have given their support to the government in the establishment of vocational schools, and the apprenticeship training system itself was the seed bed of the modern trade union movement. Union interest in retraining is, however, a relatively recent development. The United Association of Journeymen and Apprentices of the plumbing and pipefitting industry and the International Brotherhood of Electrical Workers have had retraining schemes for several years. During the last year a number of other unions, including both craft and industrial unions have negotiated retraining provisions in contracts. For example, the following agreements all call for retraining of displaced workers: Teamsters and longshoremen, and the Distributors Association of Northern California and San Francisco Employers

Council; the department store union and R. H. Macy and Company, Inc.; the I.U.E. and Otis Elevator Company; and the I.B.E.W. and International Good Music, Inc.

Several of the Supplementary Unemployment Benefit schemes improved the benefits features during 1961. This was the case in the automobile and rubber industries.

These recent trends in collective agreements show that unions have shown a primary concern for job security during a period of rapid technological change. The extent to which the union is successful in negotiating job security provisions means that the union has chosen to sacrifice other types of provisions for the time being. It seems that straight wage increases are not likely to be as large; indeed, in some cases there may even be no increase in wages at all. What has happened is that job security provisions have become a greater portion of the package.

Where the union has been unable to protect the worker from loss of job, the emphasis seems to have shifted to an attempt to give the worker some compensation for loss of job. During 1961 severance pay provisions showed an increasing incidence. Lever Brothers, the Kraft Division of the International Paper Company, and the seven railroads operating tugboats in the port of New York are examples of companies which have adopted new severance pay plans.[8]

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[8] Current Wage Developments, U.S. Department of Labor, Bureau of Labor Statistics, April, August, December 1961.

The unions' drive for pension, health, and welfare plans which started in the early 1950's has continued to date. A recent study of four hundred union contracts shows that 68% of these contracts contained pension plans.[9] There is a trend towards making many of these plans non-contributory and also incorporating vesting provisions which means that an employee's pension rights will normally follow him when he changes his employer. Unions are also pressing for the establishment of multi-employer pension plans which carry the concept of vesting a stage farther by preserving the worker's pension when he changes jobs, either voluntarily or involuntarily, within the employer group. Disability and early retirement provisions are also becoming increasingly common. Severance pay, pensions and welfare benefits tend to provide the worker with some form of financial reimbursement for loss of job rights. It is more difficult to categorize the slow trend towards profit sharing schemes; it does not seem to be connected directly with either job security or income provisions after job loss, but is perhaps merely a pragmatic approach by the unions to increase the total package won at the bargaining table.

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[9] Op. Cit., Union Labor Report.

Returning to our concept of conflict as one which involves a cost, it can be seen that when the union decides to follow one goal (e.g. job security) another goal is sacrificed (e.g. increase in wage rates). We can therefore say that the issues currently being negotiated can affect conflict within the union. These issues are not the direct cause of conflict; the issues are relatively stable and there will always be choices where there are limited resources in terms of what employers are willing to concede. The real cause of the conflict lies within the union and can be explained in terms of the social organization of the local union. Conflict is dependent on the variables within this social organization; it is only most easily identified over these specific issues. The crux of the problem therefore lies in identifying these variables and the relationship between them.

III. Major Variables in a Conflict Situation

If a local union was a completely homogeneous group of individuals with identical interests, there would be no conflict within the organization. The choice between a wage rate increase and a pension plan would not cause any disagreement, since a homogeneous group would select the alternative which would be most beneficial for every member in the group. Benefit would be possible for everyone within the organization because of the complete harmony of interest among all the members. This is of course unrealistic; even the sisters in a sorority do not constitute a homogeneous group; disagreements, manipulation, and even conflict approaching violence are possible. The local union is made up of diverse interest groups, but these very diverse groups are not so different that general agreement on most issues would not be impossible. Otherwise the organization would fail to survive for any length of time.

What are the major variables which determine the development of interest groups within the local union? At the outset it should be noted that the variables which will be discussed are not independent, nor are the interest

groups which form around these variables completely stable, for groups may dissolve and reform in different combinations each time some different issue is considered. The following variables are suggested as the most important ones; the existence of these variables constitutes an underlying cause which may make conflict within the organization arise from time to time.

1. Ethnic and Racial Characteristics as a Variable

The importance of this variable varies from union to union, local to local within a union, and according to geographic area. This variable is particularly important when the minority group is significant, and it seeks to be represented in the leadership within the local. The study of the experience of the United Packing House Workers of America[10] with their anti-discrimination program concludes that there is little discrimination within the local over business activities but some discrimination against Negroes in social activities. The methodology was such that the rank and file members were asked to give their views on the existence of prejudice within the union; it would seem likely that the members, no matter their race or ethnic origin would

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[10] J. Hope II, Equality of Opportunity, Public Affairs Press, Washington D.C., 1956.

attempt to avoid showing their organization in an unfavorable light. The rank and file did indicate, however, that minority groups did not receive equal treatment within the plant especially with regard to initial hiring and promotion to jobs of higher skill level. As expected, there was variation in response from white and Negro members. There was a good deal of variation from local to local and especially between locals in the north and those in the south.

In the textile industry interest groups tend to be formed along ethnic lines. In the International Ladies Garment Workers Union, for example, members generally belong to locals according to their ethnic origin. The situation may arise where two pressers in the same plant will belong to different locals: one to the Jewish local and the other to the Italian local. This does not mean that there is friction between the two groups, but simply that the differences in the interests of the groups (in most cases social differences) have been recognized.

2. Level of Skill as a Variable

Since the beginning of industrial unionism it has frequently proven difficult to integrate skilled, semi-skilled, and unskilled workers into the same union organization.

Purcell, in discussing the reasons for the difficulty in incorporating mechanics into a local of the United Packing House Workers of America, suggests that the problem arose primarily because of a feeling of superiority by the mechanical crafts over the unskilled workers, and, in some cases, over other skilled workers. He goes on to state that:

> Quite easily the mechanics build themselves into a separate little "neighborhood" in the plant community. The rest of the plant is "across the tracks."[11]

As one craft-conscious interviewee remarked, "What would I have to do with a sausage stuffer? I don't belong to the same class."[12]

Purcell found that many of the skilled workers, mainly electricians and welders, left the union formerly affiliated to the CIO, and joined a union now affiliated to the AFL. While the level of skill is also important in the craft union, its degree of importance is not so great as the example of the industrial union cited above.

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[11] Purcell, Theodore V.S.J., The Worker Speaks his Mind on Company and Union, Harvard University Press, 1953, p. 158.

[12] Ibid., p. 166.

The reason that this question of skill differential is so pervasive is the importance of status within the work group. A man's status amongst his own work mates in the factory is of prime importance to the industrial worker. He will seek a recognized position in a group which takes into account his personal qualities and abilities. Modern industrial technology, with the increasing size of the productive unit, is such that the social culture within the plant will be made up of a number of work groups with skill, generally, being the most important determinant of the boundaries between these groups. The division of the labor force into these various work groups in the plant will be carried over into the local union. As a result there are likely to be differences which mainly center around skill level. This important variable is at times rather complex (for example, the machinists in one department may form a different group than the machinists in another department). However, skill will usually be more influential in the formation of interest groups than either location within the plant, or shift worked. The prime importance of skill level as a variable can easily be seen in industry in any discussion of wage differentials between different groups of workers. An example of this is found in the Illini City Studies where a worker employed in processing operations said:

> The trouble between the machinist and the process man comes because sometimes the machinist gets a little higher scale. They think they ought to get a little better deal all around. A lot of times they want to ask for higher increases for themselves than for the rest of the plant. In process we don't like that.[13]

The relative position ~~of~~ within the skill hierarchy within a plant or local union may change with time, but every man will always seek to emphasize his own particular skill and to seek what he believes to be a just return for his ability.

3. The Location of the Job.

The lines of conflict are sometimes drawn along plant and departmental lines; this means that the physical location of a worker's job may determine the interest group in which he seeks identity. Similarly, the line may be drawn between day and night shift work. The location of the job within a department, and even the position on the assembly line has been found to have a significant bearing on conflict within an organization.[14] The physical nature of the job, though important in issues which directly affect a specific group of workers in the plant, is likely to be less important than skill, as a variable, in issues which affect all members of the local. On the more important collective bargaining issues, workers will show greater identity with skill

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[13] M. Derber et al., Labor-Management Relations in Illini City, University of Illinois, 1953, Volume 1, p. 250.

[14] L. Sayles, Behavior of Industrial Work Groups, John Wiley & Son Inc., 1958.

than with the position of their job station, department, or shift.

4. Age as a Major Variable.

Most writers on union organizations point out that one of the most easily observable inter-group conflicts is between older employees and younger ones. This is usually explained in terms of differing goals desired by young and by old, especially with regard to what provisions each group is likely to want from the collective agreement. A typical example is cited in the Illini City Studies:

> Well, we just put a pension plan on it. That makes a lot of old men happy. They really wanted to see that and they took a lot of interest in it. Forty years seems like a long way away to most young men... I think most young men would just as soon have a wage increase. I know I would... The union problem when things come to a vote is with the young men against the old.[15]

Seidman describes the varying goals sought by older and younger workers:

> The younger worker, eager for new experiences and adaptive to change, is different from his elderly fellow worker, who is set in his work routines and his outlook upon life, waiting out his years until retirement, primarily concerned with security and perhaps apprehensive of change.[16]

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[15] Op. Cit., Derber et al., Vol. 1, pp. 250.-251.

[16] J. Seidman et al., The Worker Views His Union, University of Chicago Press, 1958, p. 9.

Though the question of age has been given much attention in the literature on labor unions, the main purpose of these researches has been to explain the effect of age on participation in union affairs.[17] Little evidence has been found of any attempt to make a systematic study dealing with age as a variable in conflict within the local union. There are indications that age may be the predominant factor in explaining conflict over a great many issues within the union. The central focus of this paper will be to examine age as a variable. The difficulty of isolating this variable is not underestimated, but it appears that of all the variables involved in a conflict situation, age is probably the least complex. It is now appropriate to pose more precisely the questions we will attempt to answer.

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[17]See A.S. Tannenbaum and R.L. Kahn, Participation in Union Locals, Row, Peterson& Co., 1958.

IV. Questions to be Examined

In the field work connected with the pilot study we will attempt to answer the following questions:

(1) Is age a major variable in conflict within the local union?

(2) How important is age relative to the other major variables?

Another purpose of the paper is to explore, in a preliminary manner, the interaction of the major variables and the effect of this interaction on the extent of conflict within the organization. The interest groups within a local union are not normally permanent groupings, but will tend to take on varying formations depending on the issues at stake (there are exceptions: the position of the cadre in the local is an example of such an exception-- a cadre is a group within the local, controlled by a force outside the organization, often the leadership of the International. It will always act as a group on all issues; if the cadre is opposed by an equally inflexible group within the local then the conflict is likely to be more intense). We may hypothesize the intensity of conflict in the following question:

(3) If the major variables tend to reinforce each other

will conflict be of greater intensity and manifest itself in more issues?[18]

The major variables will reinforce each other if in the local most of the young workers are Negroes, unskilled, and of low seniority; there would be no reinforcement if many of the young workers were white and skilled. The reason for introducing this third question is that a greater understanding of conflict may be achieved by treating the variables in toto, instead of trying to isolate the variables and analyzing their impact on conflict within the union.

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[18] R. Dahrendorf, in Class and Class Conflict in Industrial Society. (Stanford University Press, 1959), posits the idea of reinforcing variables in relation to class conflict within society when he discusses pluralism and superimposition as types of conflict.

PART TWO:

EXPLORATORY STUDY

I. Methodology

1. Description of Interviews:

As part of the exploratory study it was decided to interview a sample of about thirty local union leaders who were attending the 1962 Summer Institute Program at the School for Workers, University of Wisconsin. As the investigation was preliminary in nature the sample was not chosen in a scientific manner; the only requirement imposed was that there be a wide dispersion in age of interviewees.

The interviews were conducted by two interviewers, one asking the questions and leading the discussion with the other interviewer noting the answers and comments of the interviewees. In some cases two local union leaders were interviewed together. This method proved very satisfactory, as the interview tended to become more of an informal discussion of the local union. The presence of more than one union official did not seem to inhibit interviewees; on the contrary it seemed to stimulate discussion.

The actual distribution of the interviews among the unions taking part in the Summer Institute program was as follows:

Union	No. of Interviews
American Federation of Teachers	4
Allied Industrial Workers	18
Oil, Chemical, and Atomic Workers	1
United Automobile Workers	4
United Steelworkers of America	4
	31 Total

2. Questions Included in the Interview

The interview was divided into three main parts:[19]

(A) Personal Characteristics of Interviewee:

Questions were asked in order to give information about the variables mentioned in the first part of the paper. There were therefore questions on age, type of job, department, shift worked, race, and ethnic origin. Questions were also asked to determine size of local and approximate average age of local members.

(B) Preferences on Collective Bargaining Issues

As pointed out earlier in the paper conflict is likely to be most clearly seen over specific collective bargaining issues. Each interviewee was presented with a list of eight forced choice questions which related to the provisions the interviewee might want the executive of his

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[19]For a sample outline of the interview see Appendix I. Note: this does not include the supplementary questions which were asked during each particular interview.

local to bargain for in the next collective agreement. The interviewee was asked to assume that he was making the choice as a rank and file union member thinking only of his own personal interest. He was also asked to assume that his union's collective agreement did not contain any of the provisions suggested.

Briefly, the choices presented were as follows:

(i) Increase in wage rate or larger pension.

(ii) Increase in wage rate or earlier pension.

(iii) S.U.B. plan or company-wide seniority.

(iv) Work sharing or layoff based on seniority.

(v) Retraining program or severance pay plan.

(vi) Increase in incentive rate or increase in hourly rate.

(vii) Increase in wage rate or profit sharing plan.

(viii) Increase in wage rate or hospital and medical plan.

The actual choices presented were selected on the basis of current issues in collective agreements which were reviewed on pages 8-12 of this paper.

(C) Existence of Interest Groups within the Local

The interviewee was asked to describe the various interest groups within his local, the characteristics of the members of each group, and the issues over which the groups were likely to disagree. This part of the interview was deliberately made open-ended as it was felt

that if the interviewee was allowed to talk freely about his local, the interviewers might be able to estimate the importance of the various interest groups within the local.

II. Expected Results of Study

1. Relationship Between Variables and Collective Bargaining Preferences.

It was expected that the interviewee's age would influence the choices he would make on the list of forced choice questions on collective bargaining issues. It was also expected that the other major variables would further affect the alternative selected. For example, in the case of age as a variable it was thought that the older worker would choose the following alternatives:

(i) Larger pension.

(ii) Earlier pension.

(iii) Company-wide seniority.

(iv) Layoff based on seniority.

(v) Severance pay plan.

(vi) increase in hourly rate.

(vii) profit sharing plan.

(viii) Hospital and Medical plan.

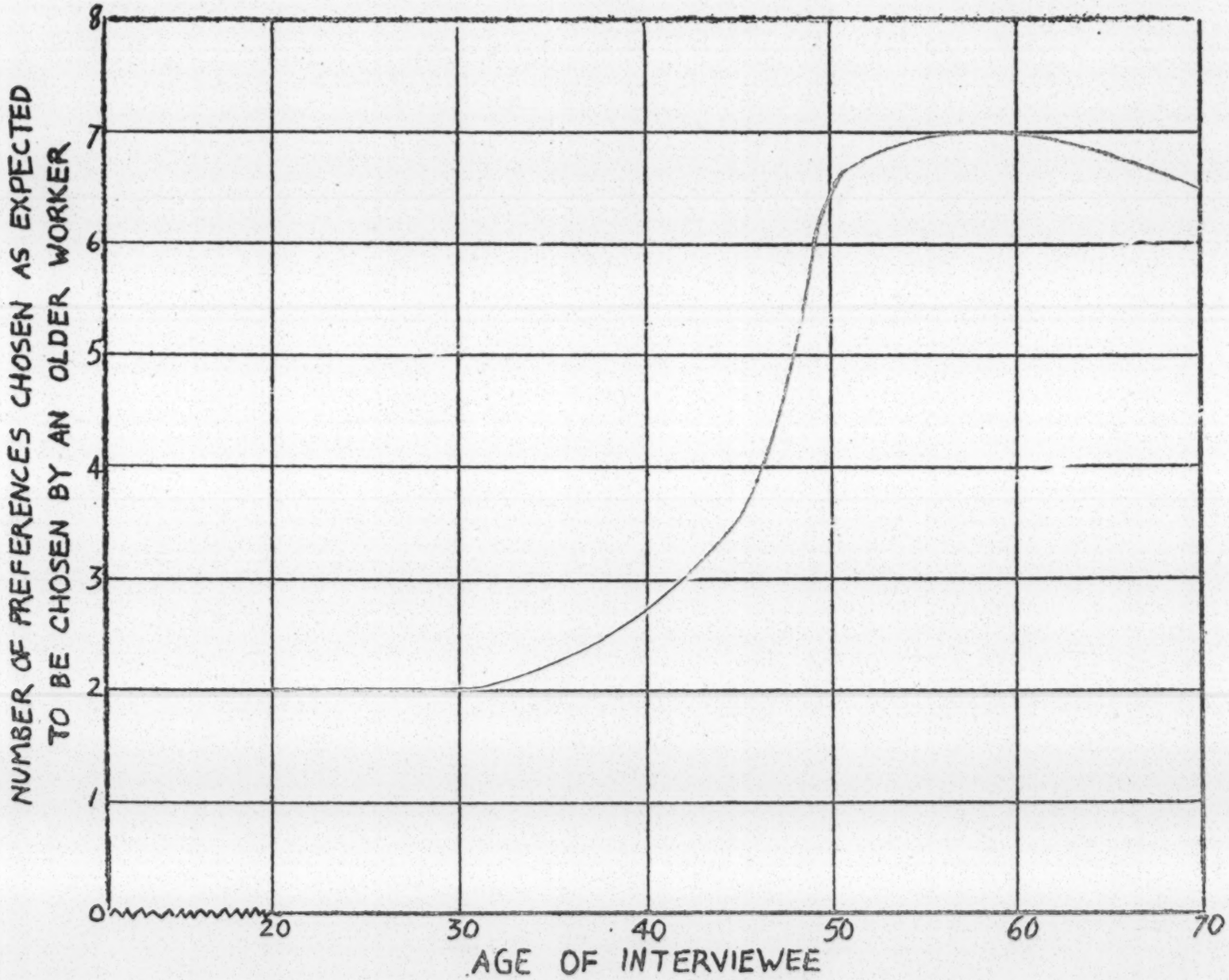
Writers in the field continually point out that older workers will want fringe benefits rather than wages and, conversely, younger workers will want more money now, in preference to some type of deferred benefit such as a larger pension. We would therefore expect that in our study the older the interviewee, the larger number of choices he would make

in accordance with the list of eight alternatives cited above. This means that a worker who is 25 years old might choose two out of the list, whereas a man of 50 may choose six out of the list of eight. This expectation is shown graphically in the figure on the following page.

It is expected that once a worker reaches his mid-thirties he will begin to think about pensions and other benefits which are likely to be of interest to the older worker. This gradually increasing interest will continue till about age 45 when there will be a sharp increase in interest in deferred benefits as the worker becomes aware of the need to think of his later life, and also when the marginal utility of cash decreases after he has established a home and his children are able to support themselves. In his late fifties and early sixties the worker's interest in pensions etc. is likely to diminish somewhat as the funds set aside for such a benefit will not have long enough to amount to a very large sum.

2. <u>Information Expected from Discussion of Interest Groups Within the Local</u>.

It was rather difficult to foresee the results of this part of the interview, but it was thought that



EXPECTED VARIATION OF PREFERENCE ACCORDING TO AGE

this section would yield the number of times interest groups representing the older worker were mentioned, and in this way it was thought possible to estimate the importance of this type of interest group in relation to other interest groups which were mentioned as existing within the local union.

III. Actual Results of Study

1. Relationship Between Variables and Collective Bargaining Preferences.

Unfortunately, due to the fact that the sample included interviewees from different locals and different industries, it was almost impossible to define some of the major variables. It was impossible to define skill as a variable because many interviewees had jobs which were peculiar to their own industries, and the descriptions of the jobs given were not adequate to compare jobs in different industries. Race and ethnic origin were unimportant in the study since only two of the interviewees were Negro; it was felt that the data from two interviews was inadequate as a basis for comparison. Also, because none of the interviewees came from locals where ethnic origin played a significant role in the affairs of the union, it was impossible to test this variable. Lack of good job descriptions in relation to the function of the department prevented any meaningful study of location of job as a variable. However, age as a variable was easy to isolate, and it was possible to compare age with collective bargaining preferences. The variation of preference according to age is shown in Table I on the following page.

Table 1: VARIATION OF PREFERENCE ACCORDING TO AGE*

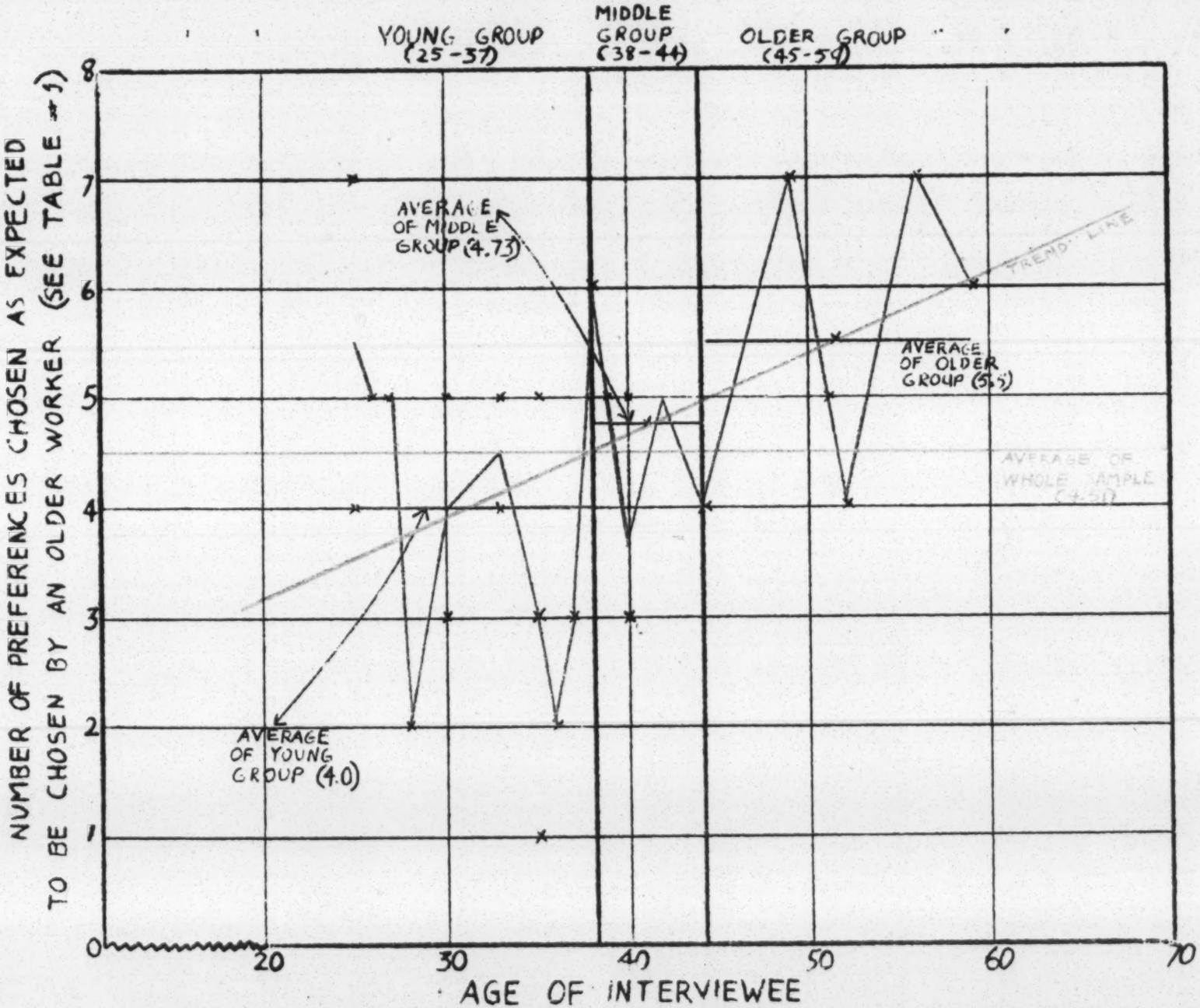
Assigned Interviewee Number	Age	Answers to Questions[x]								Total
		a	b	c	d	e	f	g	h	
1	25	1	1	1	1	-	1	1	1	7
2	25	-	-	1	1	-	-	1	1	4
3	26	-	1	-	1	-	1	1	1	5
4	27	1	-	1	1	-	1	1	-	5
5	28	-	-	1	-	-	1	-	-	2
6	30	1	1	-	1	-	1	-	1	5
7	30	-	-	-	1	1	1	-	-	3
8	33	1	1	-	-	-	1	-	1	4
9	33	-	1	-	1	1	1	1	-	5
10[xx]	34									
11	35	-	-	-	-	-	1	-	-	1
12	35	-	-	-	1	1	1	1	1	5
13	36	1	-	-	1	-	-	-	-	2
14	37	-	-	-	1	1	1	-	-	3
15	38	1	-	1	1	-	1	1	1	6
16	38	1	1	-	1	-	1	1	1	6
17	39	1	1	-	-	1	1	-	1	5
18	39	1	1	-	1	-	1	1	-	5
19	40	-	-	1	-	1	1	-	-	3
20	40	-	1	-	1	1	1	-	1	5
21	40	1	1	-	-	-	1	-	-	3
22	42	1	1	-	1	-	1	1	-	5
23	44	-	1	-	1	1	1	-	-	4
24	45									
25	48									
26	48									
27	49	1	1	1	1	1	1	1	-	7
28	51	1	1	1	-	1	-	-	1	5
29	52	-	1	-	1	1	1	-	-	4
30	56	1	1	1	1	-	1	1	1	7
31	59	1	1	-	1	-	1	1	1	6

[x]The answers totalled are those preferences which the older worker would be expected to choose. They are: (a) larger pension, (b) earlier pension, (c) company-wide seniority, (d) layoff on seniority, (e) severance pay, (f) Hourly rate, (g) hospital and medical plan, (h) profit sharing plan.

[xx]Those interviewees whose preferences are not recorded were all members of the American Federation of Teachers. They have been omitted because of the special status of teachers with regard to fringe benefits, and they will not be included in any statistical compilation in this paper based on this table.

*Source: interviews conducted at the School for Workers, University of Wisconsin, during the 1962 Summer Session. See Appendix #1 for sample copy of outline of interview.

The data in Table I is presented graphically in the figure on page 35 where the number of preferences chosen by each interviewee is plotted against age. Interpretation of this graph shows that although there is a good deal of dispersion from the trend line, there is a general tendency for preferences in collective bargaining to change with age. We can conclude that there is evidence of at least two interest groups, namely, the young group and the old group. There was, however, some difference between what was expected and the actual results (compare the expectancy graph on p. 30 with the actual results graph on p. 35). The average of the young group was 4.0 which was 2 points higher than expected; this deviation can partially be explained by the nature of the sample. All the interviewees were local union leaders which meant that they were very much aware of the need to take into account the views of all the members of the local, old and young alike. It was felt that the younger interviewees in particular, were trying to impress the interviewers with their responsible attitude towards the older members of their local; this would explain, at least in part, the difference between the expected and actual results at the lower end of the graph.



VARIATION OF PREFERENCE ACCORDING TO AGE (SEE TABLE #1)

NOTE:
1. AGE GROUP CATEGORIES ARE ENTIRELY ARBITRARY.
2. WHERE MORE THAN ONE PERSON OF THE SAME AGE GAVE PREFERENCES, THE AVERAGE NUMBER OF PREFERENCES WAS PLOTTED.
3. TREND LINE IS THE JOINING OF MIDPOINTS OF EACH AGE GROUP'S AVERAGE LINE.

It is felt that this type of analysis (plotting the variable against the preferences indicated in the questionnaire) can be useful in studying conflict in the local union. If the preferences of the older group and the preferences of the young group do not differ very much (this would be indicated on the graph by a small gap between the young average and the old average), then we can assume that both young and old, in this particular local, have the same type of personal goals which they would like to see the union achieve. This would mean that the likelihood of conflict between young and old over the issues presented in the questionnaire would be quite small. On the other hand, in a local where the gap between the preferences of the older group and those of the young group is great, any issue indicated in the questionnaire which divides the local is likely to have age as an underlying factor making for conflict; also, there is every possibility that the conflict will increase in magnitude as the gap in preferences increases.

Great difference in preference between the two age groups will not by itself precipitate conflict; it merely indicates an underlying condition in which conflict may be latent. This means that where there is a great gap in preferences (i.e. individual goals) conflict is more likely to arise and to be more intense, than where there is a small gap in preferences among members of a union local. Certainly

the difference of opinion over union goals is a more important factor making for conflict than any of the particular issues over which conflict happens to arise. In this paper we are taking the view that difference in age is one underlying factor making for difference in preference as to what union goals should be, and consequently making for conflict.

Unfortunately it was impossible to subject any of the other variables to a similar analysis, and in this way estimate the importance of age compared to these other variables.

2. Information Obtained from Discussion of Interest Groups Within the Local.

The various interest groups which were mentioned as existing within the interviewees' locals are listed below. They are listed in order of the frequency with which they were mentioned. The probable importance of each as an underlying factor in conflict is discussed.

(A) The Complainers:

This group was frequently described in rather strong terms and was, without exception, mentioned as existing within every local. As with most groups the complainers were frequently described as an antagonist toward some other group such as "the complainers vs. those in power"; the complainers

were often said to be either those who had been forced "out" of leadership or those who had been attempting to get "into" power. Only in one case did the interviewee admit that the group may at times have had a legitimate complaint. The interviewees generally felt that this group caused the local leaders extra work, but they did not feel that this group caused serious friction within the union.

Since the interviewees were union leaders it seems very probable that they would rationalize opposition to themselves as nothing more than habitual complaints by gripers. It is therefore difficult to evaluate the importance of "the Complainers" as a group.

(B) The Young and Old Interest Groups

Almost every interviewee said that both a young and an old interest group existed within his local. No-one, however, attached great importance to such groups. When asked if there had ever been any friction between the groups most interviewees replied by saying that there was never any trouble and that the differences between the groups centered around the fact that the older workers were more interested in fringe benefits and pensions than were the young. However, the members of the American Federation of Teachers indicated that there were strong feelings

over how wage increases should be applied to the present salary schedule. The young teachers at the lower end of the scale wanted the increase to be used to raise the minimum or at least get an equal dollar increase for all levels of the salary scale. The old teachers who were close to their maximum wanted the increase to be used to raise the maximum in each category.

The interviewers got the impression that the local union leaders tended to play down differences which might emerge over age. One cannot be certain about this, but it seemed that at least some of the interviewees were trying to give the impression that each rank and file member always thinks of his brothers, young and old alike, and young workers respect the rights of the old. There was one notable exception from one very frank and older local Vice President who said:

> Younger workers have a clique. They don't come to union meetings; they don't appreciate what unions have accomplished; they only complain about anything that goes wrong. The young don't have as much respect for age as they used to; they want different things. The young learn something about what's good about the union only after the company steps on their toes. All that most young workers think of is a raise in wage. They expect too high a raise every year and are not interested in anything else.

(C) Groups Associated with Skill

Most interviewees mentioned that each skill usually formed a group within the local and that the leadership had to deal with many problems which revolved around rivalry between semi-skilled and skilled, and often between two skills within the plant. In one local, composed of vocational school teachers, there was conflict between the trade teachers, who emphasized their manual skills, as opposed to the academic teachers who stressed their university training. All the interviewees who had mentioned groups associated with skill as existing within the local said that these groups were more likely to be involved in conflict than any other group and that they certainly caused the leadership most trouble.

(D) Other Groups Mentioned

Groups centering around departments, shifts, and social activities were mentioned, but the interviewees did not attach any great significance to them as possible factors in a conflict situation. Where incentive rates were paid the local leaders complained that minor disputes arose. However, the antagonism in this case was more often directed against the company than against other groups in the plant. Few

of the locals had many Negroes, and where their numbers were significant, no conflict on the basis of race was reported. As most of the interviewees came from different locals the question of ethnic origin could not be closely examined. However, in one local the union officer interviewed indicated that Serbians in the local operated as a group and usually voted as a bloc at elections.

(E) Other Information Reported

Although not directly connected with the main purpose of this paper it was found that a number of interviewees said that when a strike occurred or when a strike vote was taken, it was usually the younger members who were most in favor of striking. However, on closer examination there proved to be some good reasons (such as location of union local in a rural area where a conservative political climate prevailed) for this rather unexpected finding.

IV. Conclusions

Most of the conclusions have already been alluded to in the discussion of the actual results of this study. It will therefore suffice to briefly discuss the specific questions posed in concluding Part I of this paper:

1. Is age a major variable in conflict within the local union?

The importance of age as a variable as expressed in the brief review of the literature contained in Part One of this paper, is borne out in the empirical investigation by (a) the relation between age and collective bargaining preference, and (b) the information obtained from the discussion of interest groups within the local union.

2. How important is age relative to the other variables?

This study failed to answer this question. The study showed that age is an important variable but it did not say how important. The discussions with the local leaders indicated that skill was a more important consideration than age, so age may not be most important. Even allowing for the fact that the union officers were probably hedging a little on the questions relating to age, the interviewers felt based on their impressions of the situation, that skill

differential is more important than age differential.

3. If the major variables tend to reinforce each other, will conflict be of greater intensity and manifest itself in more issues?

This question is probably the most intellectually stimulating of the three but unfortunately a good deal more research is necessary before it can become anything more than a very interesting hypothesis. We were unable to suggest any practical method of finding a solution.

Perhaps the crucial question which a preliminary study should answer is how can the study be improved? Assuming that the general methodological approach be retained, the following improvements seem necessary:

A. The sample should consist of two union locals, one where the variables reinforce each other and the other having variables which do not reinforce each other (to act as a control group).

B. The variables should be defined more precisely, particularly skill and locality of job. This should be possible with the assistance of the local union officers and foremen in the plant.

C. At least one hundred interviews of rank and file members should be conducted in each local (in the preference part of the interview).

D. Each interviewee should be presented with a questionnaire containing at least fifty alternatives from which he is to make his choices. The questions should be more refined

and include areas other than collective bargaining.[20] This would allow statistical techniques to be used in analysis, a means that could not be used to any extent in the preliminary study (due to the small number of questions and interviewees).

E. The general discussion part of the interview should be retained because too much reliance on refined questionnaires and statistical analysis could be dangerous and misleading. The "scientific" part of the methodology will not in itself answer the questions here posed; it is necessary to get first-hand information from the union member himself and find out what he thinks is going on within his local. Only then will we be able to suggest answers to the questions with any degree of confidence.

Finally, though this research report is not an unqualified success story, it is suggested that it has contributed something by conceptualizing the problem of studying conflict in the local union.

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[20]An examination of the collective bargaining alternatives presented to the interviewee during the exploratory study shows the urgent need for refinement of the alternatives. At least two of the alternatives do not adequately discriminate according to age and some of the other collective bargaining provisions suggested are rather vague. Any refinement should take into account the union's existing collective agreement.

Bibliography

1. J. Barbash. Labor's Grass Roots: A Study of the Local Union. (New York: Harper 1961).

2. J. Barbash. "Impact of Technology on Labor-Management Relations," in Adjustments to Technological Change, forthcoming volume of IRRA.

3. Bureau of National Affairs, Union Labor Reports, 1961.

4. M. Derber et al. Labor- Management Relations in Illini City, Vol. I and II, (University of Illinois 1954).

5. R. Dahrendorf. Class and Class Conflict in Industrial Society, (Stanford University Press 1959).

6. S. Greer. Last Man In, (Glencoe: Free Press 1959).

7. J. Hope II, Equality of Opportunity, Public Affairs Press, Washington D.C., 1956.

8. A. Kornhauser ed. et al. Industrial Conflict, (New York: McGraw-Hill 1954).

9. S. M. Lipset et al. Union Democracy: The Internal Politics of the ITU, (Glencoe: Free Press 1956).

10. T.V. Purcell, S.J. The Worker Speaks his Mind on Company and Union, (Harvard University Press 1953).

11. H. Rosen and R.A. Hudson Rosen. The Union Member Speaks, (New York: Prentice-Hall Inc. 1955)

12. L. Sayles. Behavior of Industrial Work Groups, (John Wiley and Sons Inc. 1958).

13. L. R. Sayles and G. Strauss, The Local Union: It's Place in the Industrial Plant, (New York: Harper 1953).

14. Seidman et al. The Worker Views His Union, (Chicago: University of Chicago Press 1958).

15. A.S. Tannenbaum and R.L. Kahn. Participation in Local Unions, (Evanston: Row, Peterson 1958).

16. The Nature of Conflict, UNESCO, 1957.

17. US Department of Labor, Bureau of Labor Statistics, Current Wage Developments, 1961.

Appendix

Outline of Questions for Interview.

Name of interviewee _____. C. _____

Phone(at Sullivan Hall) _____

Name of union _____ Local No. _____

I. Some Background Information.

1. What is your date of birth? _____ Age _____
Day Month Year

2. What is your sex? Male ☐ Female ☐

3. Where were you born? _____

4. Where was your father born? _____ _____

5. How many years have you been working for your present employer? _____ YRS.

6. What is the title of the job you hold at the present time?

Title of Job _____

7. Describe briefly the kind of work you do.

8. Is there shift work in your plant? Yes ☐ No ☐

9. Are you employed in shift work? Yes ☐ No ☐

If Yes, which shift do you work? _____

10. What department do you work in?

Name of Department _____

11. Give a brief description of the seniority system operating in the company where you work.

12. How much seniority do you have on your present job classification?

_____ Years.

13. How long have you been a union member? _____years.

14. How long have you been a member of your local _____years.

15. Are you a steward or officer of this local? Yes ☐ No ☐

If yes, please list the positions you now hold.
Name of position: _____

_____

16. Most locals hold regularly scheduled meetings for all members, or for all people who work on the same shift. About how many of these regular meetings have you attended this last year?

_____ out of _____

YOUR PREFERENCE ON WHAT YOUR LOCAL SHOULD BE TRYING TO GET FOR ITS MEMBERS

If it were your choice as to what the union should bargain for at the next bargaining session, which course of action would you take in each of the following alternatives? You must make a choice in each case (a through h). Where neither course of action is exactly what you would like, choose the one which is the most acceptable of the two. Mark your choice with an X in the box provided.

(a). A 15¢ an hour increase in the wage rate, ☐

OR

The same amount of money applied to a pension fund which would increase the amount of pension received when you retire. ☐

(b). A 15¢ an hour increase in the wage rate, ☐

OR

The same amount of money applied to a pension fund which would allow older workers to retire at age 60 rather than at age 65. ☐

(c). A S.U.B. plan where the worker gets payment from a fund financed by the employer when he is laid off. The worker must be unemployed before he gets anything from the fund, ☐

OR

An extension of the seniority provisions which would allow a worker with ten years or more seniority in one plant to bump a worker with five years or less seniority in the same plant or any other plant of the company, provided the more senior worker can do the less senior worker's job. ☐

(d). In the event of a slack period in your industry the union should negotiate for a work-sharing provision, ☐

OR

The union should not negotiate for a work sharing agreement but allow the employer to lay off some workers based on seniority. ☐

(e). A severance pay plan (or an improvement in the existing plan) to help displaced workers, ☐

OR

A retraining program to help prepare displaced workers for another type of job. ☐

(f). A wage increase paid in the form of raising the price rate (or establishing the method of payment if it does not already exist), ☐

OR

A wage increase paid in the form of improving the hourly rate of pay. ☐

(g) A 15¢ an hour wage increase, ☐

OR

The same amount of money applied to a Health Insurance plan which includes hospital and medical benefits for the worker and his dependents. ☐

(h). A 15¢ an hour wage increase, ☐

OR

The same amount of money applied to a profit sharing plan. ☐

Suppose the Bargaining Committee of your local follows a course of action which is directly opposite to the one which you would have preferred in the above selection of alternatives. In other words, if in (a) you would have chosen an increase in wage rates, the Bargaining Committee would have held the view that the increase should have been applied to pensions. If in every one of the choices they would have chosen the opposite course of action from the one you would have preferred, it is likely that the final agreement would be much different from the one which you would have liked. The question is now what would you be prepared to do about it?

III. Questions About Your Local.

Please tell us about the various groups within your local. How would you describe them? How would you describe the people who usually stick together in each of the groups? What are these groups likely to disagree over?

Meet

Your Shop Steward

Welcome!

Welcome to the shop. It's a union shop, and I'm your union shop steward.

Some locals call it chairman, and some have a grievance committee, but it means the same, really. I've been chosen to represent you and I'm at your service.

Everyone in the shop belongs to the union and is covered by our union contract. This contract was negotiated for us by our union, the Amalgamated Clothing Workers of America, CIO, through collective bargaining with the company.

Through our union contract we have job security, vacations with pay, paid holidays, guaranteed minimums, life and health insurance and many other benefits.

You'll probably have lots of questions about what your rights and responsibilities are in the shop, and maybe some about working conditions or your union insurance policy or sickness and accident benefits.

Bring them right here! I'll be glad to try to answer them, and I may have a leaflet on the subject to give you, too.

Also, I'm the person who has been selected for you to come to when you have a shop complaint relating to your job, wages, or any other shop problem. Through the union we have a regular channel to settle these complaints with the company. We call this our grievance procedure.

BE SURE TO TAKE ANY SHOP COMPLAINT TO YOUR STEWARD

You Can Help the Union Too!

The union is your organization. Its success depends on how much interest you take in it.

You can help by remembering first of all that YOU ARE THE UNION. It's you and the person next to you, and the one next to her, all of you, that make the union strong.

If the employer knows that every union member in the shop is interested in seeing complaints settled fairly, and that your stewards and union representatives have your support, then complaints will get settled faster and more easily.

That's what makes the whole Amalgamated with its 375,000 members strong.

Be sure to come to UNION MEETINGS. There we keep informed on what's going on in the union, and plan our local activities. It's important for YOU to be there *so your ideas and vote will count.*

WATCH THE BULLETIN BOARD FOR NEWS OF YOUR NEXT UNION MEETING

If you have a Shop Complaint or Grievance:

Don't **quit your job**

Don't **stew all day long**

Don't **gripe to your fellow workers and neighbors.**

They can't help but your steward can!

If you have a Shop Complaint or Grievance:

Do **bring it to your shop steward**

Do **keep cool**

Do **remember that your union is backing you up.**

I AM YOUR STEWARD.

My name is: .....

I work in ..... **department**

on the ..... **floor.**

National Education Department
AMALGAMATED CLOTHING WORKERS OF AMERICA
15 Union Square • New York 3, N. Y.

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YOUR EDUCATIONAL COMMITTEE

CAN GET MOVING NOW!

The University of Wisconsin School for Workers has its foundation in the assumption that organized labor is, and should be, a recognized institution in American society. For many years, universities have offered research facilities, advice, counsel, and field services to farmers, representatives of industry, retail merchants, and many other community groups. The University of Wisconsin has recognized that members of Labor Unions need and deserve similar attention in meeting and solving their problems within the framework of our economic, political, and social system.

This pamphlet has been prepared by the School for Workers under a grant from the Inter-University Labor Education Committee, a nonprofit corporation set up by the Fund for Adult Education, which was established by the Ford Foundation. It represents a part of our contribution to the program undertaken by the Milwaukee Federated Trades Council - AFL to stimulate the educational activities of local Unions belonging to the Council.

It is our hope that the practical suggestions which follow will be of assistance to local educational committees in their efforts to inspire in Union members a keener, more vital interest in the affairs of their Union and their community.

Robert Ozanne
Director, School for Workers
University Extension Division
University of Wisconsin

every season is a

GOOD SEASON

to begin your educational program. Because whether it's hot or cold, winter or summer -- there is always something you can do to make your members more aware of the Union, more eager to take part in its activities.

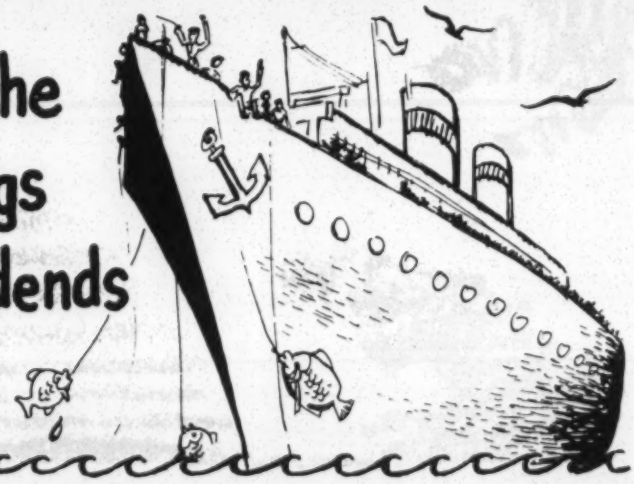
Classes are helpful, institutes and conferences are important. But Union education is bigger than any formal program. It is the grand total of all the ways in which a Union transforms its members from passive to active, from nothing-but-dues-payers to solid-every-meeting people.

In the following pages, we're going to suggest several ways in which you can make a start on such an ambitious project. Some of the ways may seem strange or roundabout to you -- but if you stay with us, you'll see what we mean. And in the end you may agree that sometimes he educates best who "educates" least.

So here we go, with some practical suggestions to help you get your educational program rolling RIGHT NOW . . .

A SPECIAL RATE BOAT RIDE

a dip in the deep brings Union dividends



On a hot summer's day, there's nothing that will cool brows and raise spirits like drifting into the briny deep. And is it practical? You bet!

Your Union can charter a boat holding about 60 people for a two-to three-hour ride at a total cost of about a dollar per person. And if you can afford it, why not take a quarter a head from Union funds and make it a specially tempting offer?

This is an extra-popular attraction in these parts, so it might be an idea to charter a boat now -- and make sure that you have a guitar player and a couple of good tenors aboard before you weigh anchor. Everybody will have a wonderful time, and you will have a chance to get on a "Hi-Ya, Joe" basis with a lot of members you never saw before -- and their wives.

A TABLE WITH A PURPOSE CAN PICK UP YOUR PICNIC

A PICNIC WITH A DIFFERENCE

Yes, everybody has picnics, and there is supposed to be nothing new under the sun to say on the subject. But "it ain't necessarily so"!

One of the most successful educational directors we know tells us of a new wrinkle which he absolutely guarantees. Have your committee pick a choice spot -- right in the middle of the festivities -- and put up a special table.

Then nail a sign alongside so that everybody can see what's going on -- which is getting people to write to their Congressman about something urgent or to sign something important. You'll be amazed at how many people come up to chat with you, and how much of your story you can get across by just adding this new twist to an old stand-by.

A "COUNTRY CLUB" DANCE

COURTESY OF THE UNION

A PARK PAVILION AT NIGHT IS SO GLAMOROUS AND SO INEXPENSIVE...

Most people, including Union members, have a yen for a touch of glamor in their work-a-day lives. And since most people don't belong to country clubs but *do* belong to Unions, it's up to you to meet the challenge.

We are not suggesting you buy a country club. But we do suggest that you take a look at one of the parks in the vicinity that rents beautiful pavilions for enchanted summer evenings.

Once you get the pavilion (token fee), all you have to do is string some Japanese lanterns around it, find a good rhythm outfit and, like magic, you have as glamorous a summer dance as a young Unionist could wish.

AND JUST A WORD TO THE WISE-

IT'S NOT WHAT YOU DO
IT'S THE WAY THAT YOU DO IT

Meaning that even the most successful picnic or party is a flop from your point of view if you don't make it an opportunity to meet members you've never really met before -- the people who are just names on Union books. The first thing, of course, is that you can't be shy -- you have to be friendly. As soon as you see a new face, saunter over and introduce yourself. If you are wearing some sort of special Educational Committee armband, or other identification, that simplifies the job.

While you're talking, find out what shop or section the new friend is working in, and as soon as you can find a quiet spot, *make a note of it.* Don't depend too much on your memory after a hot day in the country.

In talking to an "inactive" at a big affair, it's usually a good idea to have in mind one future Union activity to which you can invite him. This gives you a chance to observe whether your prospect is at all interested in other Union activities -- whether this is a lead that can be followed up.

And if there is even the slightest ray of hope, make sure that you *do* follow up. A few days after the outing, before the man has a chance to forget you, drop around to see him in the shop or ring him up at home and give him the details of the meeting you were telling him about. Or just ask him to drop around to the Union office to meet some of the boys. But whatever you do, do it soon, while the memory still lingers.

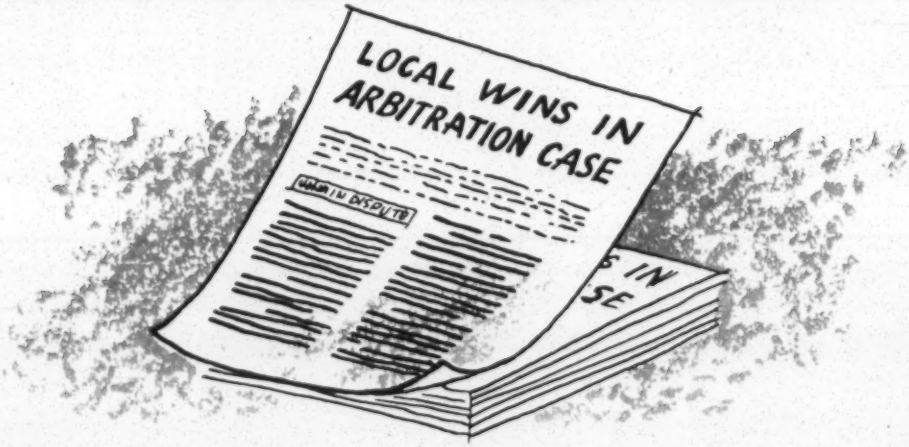
So you've made good use of the summer...

NOW YOU'RE READY FOR

Fall

AND SOME BASIC ACTIVITIES...

first YOU'VE *GOT* TO COMMUNICATE



EVEN IF IT'S A ONE-PAGE MIMEO JOB

It's better than nothing -- much better. And it doesn't have to be smooth, or professional, or anything like that. It just has to talk to your people about things that are important to them....plus as many personal items as possible -- people always go for these.

If yours is a Local with just a few shops -- try a two-page paper, with Local news on the first and last pages, and shop news in between.

And don't think you need a full-time editor, although it's a good idea if you can afford it. We at the School for Workers will be glad to help you get a paper started, and we have classes where you can learn to be your own editor.

This is something worth thinking through carefully. First, who ought to meet when? If yours is a very big shop or local, do you have occasional meetings for sections or occupational groups where they can consider their particular problems? For instance, even if there are only five maintenance men in your shop, they should get a chance to get together with the Union officers once in awhile and discuss their problems. If they always get lost in the shuffle of a big meeting, they'll just stop coming.

Also, watch that agenda. Is it as short as possible? Are you balancing the time spent on various items? Have you the meeting fairly well planned in advance, so that it runs smoothly?

And have you allowed plenty of time for discussion? Nobody enjoys being talked at for more than a few minutes at a time.

How about a good labor film once in awhile to add zest to things? Your local library (in Milwaukee, the City Museum) has a film-lending service, and so does the University of Wisconsin.* Also, you can rent a film-a-month from the Workers Education Bureau of the AFL for $18.00 per year. Are you using all the good guest speakers your area provides? They're helpful, too, in giving your program a change of pace. If you're stymied, call on us -- we know speakers galore.

*You can write to the School for Workers and tell the films you want, or you can contact the Bureau of Audio-Visual Instruction, 1312 West Johnson Street, Madison 6, Wisconsin directly.

CONCENTRATE ON YOUR SHOP STEWARDS

Day in, day out-- they are "THE UNION" to your members

Everybody knows that the shop steward is the backbone of the local Union. This being the case, the stronger (i.e., better informed, more effective) the shop steward, the stronger your Union.

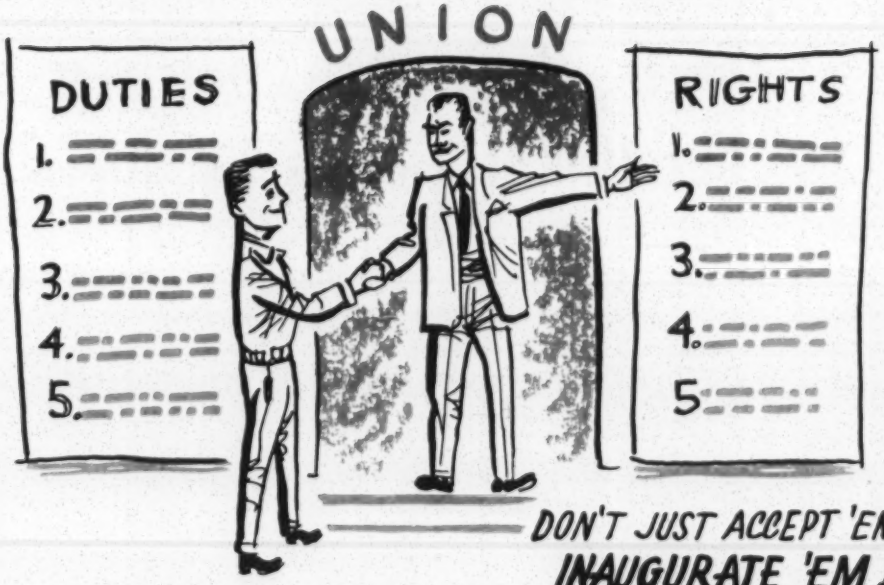
Now some shop stewards are born, but more of them are made. And the job of making them is up to you. You can start your own Shop Stewards' Training Course, where the contract is studied closely, shop problems worked through thoroughly, and new ways of reaching members are developed.

Or, if it's more convenient, the School for Workers can handle such a class for you. Either way, concentrate on your shop stewards--the results will more than repay the effort.

Make a good start...

WITH

NEW MEMBERS



DON'T JUST ACCEPT 'EM..
INAUGURATE 'EM!

Do you have a special "Inauguration Meeting" for new members, or do you just take them in at the end of a regular meeting?

If you've never tried it, you may find that a special New Members Meeting can accomplish a great deal. It gives you an opportunity to explain what each member gets for his dues dollar – all of the rights and benefits he is entitled to. You can also give a short and colorful sketch of the development of your Union, so that the new man will be proud of his outfit.

Finally, you can wind up with an impressive handing out of Union books accompanied by a friendly handshake, all of which should convince the newcomer that he's in good company.

A Counseling Service IS POPULAR

Everybody has problems which aren't directly job-connected. And some of these problems can be handled by the Union -- specifically, by the Educational Committee.

For instance, with a little training (which the School for Workers can provide) your Committee can answer questions about unemployment compensation, social security, and general tax problems.

By consulting with community agencies, you can discover where aid is available for members who may be in physical, psychological, or economic distress. Often when such emergencies hit people, they find it impossible to find the information they need. If you can find it for them, you will be performing an important service.

Why not establish a regular Counseling Night at the Union office, when at least one member of your Committee is around to help people. You'll be surprised how quickly the word gets around: "Got a problem? Why don't you talk to the guys at the Union?" Try this one as a morale builder. It's one of the best.

OKAY... YOU DO THESE THINGS BUT YOUR MEMBERS STILL DON'T BATTER YOUR DOORS DOWN...

GIVE UP?

NO! GO VISIT 'EM

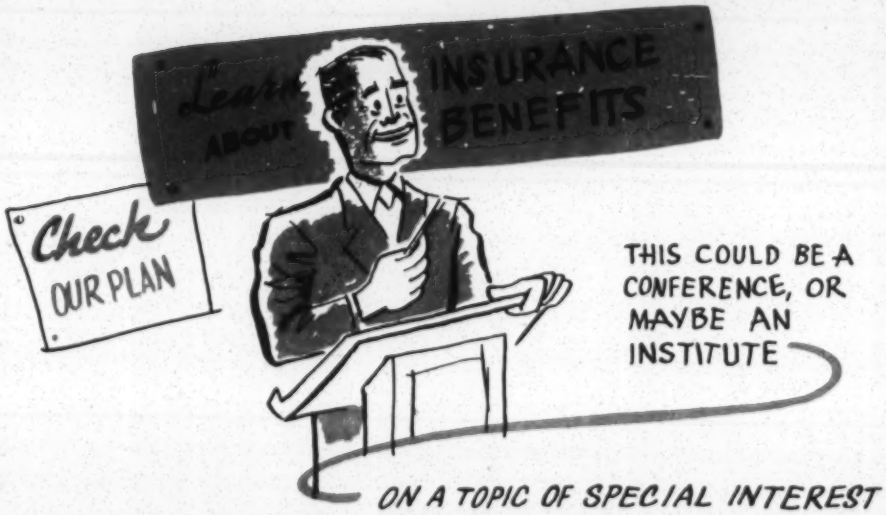
By this time you've made a good start on your program -- but where are the customers? Don't worry -- it happens to the best of Unions. Sometimes the customers are slow to show up. But don't get discouraged. If the members won't come to the Union, take the Union to the members -- pay them a visit.

This is not as rugged as it sounds. By dividing the city into areas, Committee members can save themselves wear and tear. And you don't have to visit every Union member. Just the ones that you have some leads on.

Since a man has to listen to you if you're his guest -- and even look halfway pleased about it -- you'll be surprised how easy it is to tell him about the Union and to give him the feeling that he's going to miss a lot if he doesn't come around. It's worked for other Unions--let it work for you.

HAVE FREQUENT...

SPECIAL EVENTS



By definition, if you're a Union leader, you're a man with a keen ear attuned to the ground. And probably every so often you hear stirrings of interest in some topic among your members. You notice, say, that there's been a lot of talk lately about health problems, Blue Cross, etc. And as a matter of fact, you're thinking about moving ahead on the health insurance front in your next contract.

That's the time to hold an Institute on Insurance Problems and Benefits. Everybody gets a chance to examine these problems more closely, *and* your members are in a better position to know the score during negotiations.

Same thing is true for political issues, labor legislation, and a host of other topics which, from time to time, become crucial questions to Unionists.

Since most of you have attended School for Workers Institutes, we don't have to say that you can count on us for every kind of educational assistance.

MAKE POLITICAL EDUCATION A JOINT EFFORT

We know that most of you have already made some beginnings in the field of political education. We just want to suggest that you can do more by working political education into your other Union functions -- educational and recreational -- than if your Political Education Committee has to solve all of its problems alone.

The "Political Education" table at the picnic on page 5 is an example. So is the Political Issues Conference on page 15. You can also have the Ladies Auxiliary whip up a luncheon and feature a whale of a debate on a hot political issue with the Educational Committee working up some reference materials for members to take home.

Or you can feature a "Best Letter to Your Congressman" contest in your newsletter. Or, if all the committees get together and do a real publicity job -- you can even invite a Congressman to your local meeting.

It's the working together that produces the ideas.

WHAT'S A UNION HALL WITHOUT A LIBRARY ?

How to win friends and influence members

Nothing is as bare as a Union hall without books. *You* know that the labor movement is a major aspect of our free society -- and that thousands of books, newspapers, and leaflets are written about it -- but do all of your members know?

They'd be a lot more impressed with Unionism as a whole, and your Union in particular -- if they could see and read the labor news, the background of the news, the books on special labor problems, etc. Your local library (particularly in Milwaukee) will cooperate with you in working out suitable rental arrangements, and the Workers Education Bureau of the AFL can send you good reading material and a special case for display without charge. Thus you can have a solid, impressive Union library at almost no cost to your Union at all.

And while you're at it, have a good selection of popular books on hand to attract the lighthearted. Sometimes you can start a conversation with a fellow who just came up to borrow *Caine Mutiny* and wind up with a new active member! It's one of the best tactics we know.

SHOP PROBLEMS
CONTRACT
UNION ACTIVITIES
PRESIDENT
EDUCATIONAL
BUSINESS AGENT
EDUCATIONAL PROGRAM

AND ABOVE ALL...

INTEGRATE YOUR EDUCATIONAL PROGRAM

WITH THE LIFE OF THE UNION

After all this talking, the last point we are going to make is probably the most important: An Educational Committee can only do a job if the Union leadership includes it *in*, as opposed to including it *out* -- someplace in the outfield.

An educational program where the members are busy with this class and that conference but are caught off balance when negotiations come up -- that program is a flop. To do a job, your Educational Committee has to know what's going on in the Union.

If possible, a member of the Committee should sit in on contract negotiations and other basic discussions. In this way, your educational program will handle first things first and will genuinely bring your members closer to the Union. Otherwise the whole thing is an ornament stuck on top of the Union structure -- nice, but insignificant.

So whether your program is modest or ambitious, large or small -- keep it close to the heart of the Union.

a few ADDITIONAL IDEAS!

KEEP IN TOUCH WITH YOUR NIGHT-SHIFT MEMBERS. Have occasional Saturday morning meetings to bring them up to date on Union business -- and how about a "Saturday Social" once in awhile, to make up for all the Union celebrations they miss.

A UNION MAN SHOULD HAVE A UNION FAMILY -- and you can help. Make something lively out of the Ladies Auxiliary. Just before the Xmas Kiddie Party (a fine thing in itself), have a luncheon for the ladies, with a good Union speaker. Or how about a Father-Son picnic-plus-baseball, with a little conversation about Dad's Union, when everybody is relaxed.

A HOBBY CLASS will bring people to the Union Hall that you've never seen before. Pick something popular and not too expensive. Photography Labs, Singing Groups, Leather Craft, and Social Dancing are frequent winners, and the School for Workers can help you get started.

BRING COMMUNITY ACTIVITIES TO YOUR UNION. Many of your members, and their wives, take part in community activities. Why shouldn't they do so through the Union? For instance, you hear that several members are thinking of joining a Red Cross class. Ask the Red Cross to hold the class at the Union hall. Or if the Union is contributing to a charity, maybe that organization has a movie about its activities which will enliven a meeting. In short, the more aspects of a member's life are included in the life of the Union, the more active members the Union will have.

Union Admin.
Leadership

REPRINT SERIES NO. 167

INSTITUTE OF LABOR AND INDUSTRIAL RELATIONS

Functional Areas of Leadership in Social Movements

by JOSEPH R. GUSFIELD

UNIVERSITY OF ILLINOIS BULLETIN

The Institute of Labor and Industrial Relations . . .

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UNIVERSITY OF ILLINOIS BULLETIN

Volume 64, Number 66; January 16, 1967. Published twelve times each month by the University of Illinois. Entered as second-class matter December 11, 1912, at the post office at Urbana, Illinois, under the Act of August 24, 1912. Office of Publication, 114 Altgeld Hall, Urbana, Illinois 61801.

Reprinted from *The Sociological Quarterly*, Vol. 7, No. 3 (Summer, 1966).

Functional Areas of Leadership in Social Movements

JOSEPH R. GUSFIELD, *University of Illinois*

STUDIES OF social movements have devoted a great deal of attention to types of leadership and problems of leadership change. Max Weber's concept of charismatic leadership has had an immense influence upon the thinking of sociologists about the sources of authority and dominance in changing political life. The "natural history" approach of many writers has stressed the decline of enthusiastic, agitational leadership and the development of statesmanlike, bureaucratic administrators as movements have become formally organized into stable structures.[1] The approach of these studies has been on leadership changes through time as a function of different forms of structure and of different situations in which organized movements operate as they become large and institutionalized.

It is our intention, in this paper, to examine the problems of leadership from a slightly different perspective. We are concerned with the conflicting types of demands made upon persons in leadership offices in many different situations. The focus of our attention is upon the persistent demands that leaders function within and before diverse audiences. In social movements, as well as in other complex and large organizations, the incumbent leadership is the center of demands to function in both internal and external environments. He is at the head of a hierarchy of authority and decision-making within the movement. At the same time, in the effort to affect change and to prevent the detrimental damage of a hostile environment, he operates in an environment of clients, enemies, adherents and potential recruits in which he has no authority and in which he represents the movement. The tension

[1] Two variants of the natural history approach can be found in Herbert Blumer, "Collective Behavior," in Robert Park (ed.), *Principles of Sociology* (New York: Barnes and Noble, 1939); and Max Weber, *The Theory of Social and Economic Organization*, trans. A. M. Henderson and Talcott Parsons (New York: Oxford Univ. Press, 1947), pp. 363–86.

between these two areas gives rise to some characteristic problems of movements and their leadership.

The empirical analysis given here is largely drawn from one organization—The Woman's Christian Temperance Union. It deals with leadership in two different periods—at the turn of the century and in the mid-1950's.

Role Differentiation and Leadership Types

We are often used to thinking about leadership as *one* role within the differentiated social system of groups and organizations. References to *the* leader perpetuate this tendency. In recent years, however, the idea of role set has begun to sensitize sociologists to the need to distinguish carefully between a status, or social position, and the package of roles which accompany it. By virtue of occupying a status, the person is exposed to a number of roles rather than to a single role. It is important to stress the multiplicity of the roles in each role set because "any one occupying a particular status has role-partners who are differently located in the social structure." [2] The president of a bank acts quite differently in interaction with his employees, his colleagues, fellow members of a bankers' association, or among other influential persons in his town. Each of these interactional situations is governed by his status as a bank administrator but each interactional expectation is different from the other in content.

In discussing leadership, we are dealing with it as a social status. People assume positions of leadership. Those with whom they interact both demand and allow the leader to act in defined and patterned ways we call social roles. The diversities which distinguish one role from another within a set arise because the leader, or any status-holder, interacts with persons in different statuses and, hence, is performing different functions in each component of the role-set.

This can be seen in the studies of leadership in small groups. Bales and others have demonstrated a tendency for leadership to become differentiated into two persons, each of which performs a different function.[3] The task leader sets the conditions of work

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[2] Robert K. Merton, *Social Theory and Social Structure*, rev. ed. (Glencoe, Ill.: Free Press, 1957), p. 370.

[3] Several studies dealing with leadership and role differentiation are found in A. P. Hare, E. Borgatta, and R. Bales, eds., *Small Groups* (New York: A. A. Knopf, 1955); see Robert F. Bales, "The Equillibrium Problem in Small Groups"; Phillip

performance and goal orientation. The social leader maintains the morale of the followers and the harmony of the social group. Two somewhat diverse functions of leadership are called for. The performance of these by different people suggests the development of types of leaders as distinct persons—task leaders and social leaders.

Theodorson's study of leadership and popularity roles under conditions of high and low cohesiveness demonstrates that these functions need not be performed by separate persons.[4] He found that under conditions of high social cohesion, task leadership and social leadership were united in the same person. Under conditions of low social cohesion, in small groups, the performance of these functions was separated.

These considerations provide a basis for examining leadership in social movements from the standpoint of the joint demands made upon leaders to perform different roles and serve different functions. The implications of role-set theory suggests that leadership can be conceived as a set of simultaneous roles. The empirical studies of small groups show that functions need not be performed by the same person or leader.

The Problem of Dual Environments in Social Movements

The religious cult is often indifferent to the way in which it is judged by the hostile, nonbelieving society in which the cult is nominally resident. Organized movements cannot turn their backs upon the society with as much ease. Because a movement seeks to change the norms or values of the social system, the leaders and followers are cognizant of the nonmember and his potentialities as friend or foe of the mission. A movement is drawn into the power structure of the society. Change necessitates what Selznick has referred to as the process of "the penetration of institutional targets." [5] Public opinion is an object of concern and the major institutions of the society-church, school, government are friendly

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Slater, "Role Differentiation in Small Groups"; and Leonard Berkowitz, "Sharing Leadership in Small, Decision-Making Groups."

[4] George Theodorson, "The Relationship Between Leadership and Popularity Roles in Small Groups," *American Sociological Review*, 22:58–67 (Feb., 1957).

[5] "These functional organizations—are the established value-impregnated associations which fulfill enduring needs. . . . It is just because these institutions are important to society that the penetration and exploitation of them may yield significant increments of power." Phillip Selznick, *The Organizational Weapon* (New York: McGraw-Hill, 1952), p. 172.

or hostile or neutral. The achievement of the goals of a movement is clearly affected by the degree of influence it can bring into play in the society. The more reformist and less radical the movement, the more likely it is that adherence does not commit the member to a major break with his social system. Nevertheless, because it does seek change, the movement encounters resistance and opposition. Because it must endeavor to expand its influence and power beyond its own committed adherents, a movement must find ways of manipulating and influencing the external environment of organizations, institutions, and opinion in which it operates.

These considerations give rise to demands that the movement avoid a high degree of isolation, ridicule, and social ostracism. Members and leaders come to feel that, in the interests of wider influence or defense against hostile organizations, traditional doctrines must be tempered or additional interests added. In this way potential recruits, socially influential persons, and possible "fellow-travelers" may be attracted to the movement. It is necessary, therefore, that the movement be articulated to the major segments of the parent society. To keep the movement on a plane of liaison with the society is one of the major functions of its staff of administrators and leaders.

Movements, however, are also ways in which social discontent is expressed and channelized. They aim at the imposition of concrete objectives not yet accepted as legitimate by important and influential parts of the social structure. The commitment of the membership to the movement, its leadership, doctrines, and methods is an important aspect of the strength or weakness of a movement. In its function of mobilization, the movement develops an elan for the ideas it espouses and for the work or sacrifice that the mission of the movement entails. Because membership must be "counted on" in moments of crises, the mobilization function entails the development of the separate identity of the movement and the forging of strong ties between membership and staff.

Occupying an office of leadership, the leader is subject to two sets of role demands and to dual functions. As an articulator of the movement in the total society, he must learn the limits and possibility of actions in the light of the power and ideologies of influential persons and organizations outside of the movement. He must attempt to sway these to the uses of the movement as best as may be done. However, as the mobilizer of commitments to the

movement, he is expected to express the sharp disjuncture between the values of the society and those of the movement.

Janus-like, the leader stands in one place, facing two different ways. In one direction he is the head of the movement—the major embodiment of commitment to its values and program. Here he faces inward, toward the goals and ideals of the adherents. In the other direction he functions as a negotiator and communicator between the external environment and the internal one. In one function, that of mobilization, he breathes the fire and brimstone of enthusiastic mission. In the other function, that of articulation, he pours the oil of bargaining, compromise, and the common culture.

Because the leader is the most visible member of the organization, his acts become symbolic of the entire movement. This process is affected very profoundly by the spread of mass media of communication. It is with leadership that the public identifies in describing and judging a movement. The Townsend Movement, McCarthyism, the association of Walter Reuther with the C.I.O. —these are all instances in which movements are identified with specific persons. Leaders, in this function as representatives (or articulators) appear before the public as the champions of their movements on radio, press, and television. They are major points of contact between an uncommitted or hostile public and an organized, ideological, and personally committed movement. Especially at the national level, the leader personifies the movement, in cartoon, picture, story and legend. For much of the public, the leader becomes synonymous with the movement and its adherents.

As head of the movement the leader is charged with the duties of mobilization. As representative of the movement to other organizations and to the general public, he is the chief articulator of its interests in the wider society. Because of these dual functions, mobilization and articulation, demands develop within the movement for divergent modes of leadership behavior. These frequently exist at the same time, are often inconsistent, and are produced by a situation common to many organized movements at all times. They are not products of a specific stage in the life history of the movement, although the tensions may be more critical in one period than in another.

One set of demands inheres in the expectation that the leader function as a mobilizer of the energies and commitments of the movement. The other set of demands consists in the expectation

that he be the articulator between the movement and relevant aspects of the society. These two roles—articulation and mobilization—are part of the role-set of leadership.

Mobilizing and Articulating Leadership in the WCTU

Both functions of mobilization and articulation are part of the set of roles to which leadership is espoused. It follows from this consideration that leaders who perform their tasks in ways which maximize one role in the set may endanger the performance of the other role. Typologies of leaders are thus instances in which one part of the set is dominant. The leader plays a role in one of the areas to the neglect of the other. The existence of one type of leader, clearly delineated, is thus the sign of strain and imperfect role performance or indicative of the greater need for one function to be performed at the expense of another.

The role of mobilizer demands that the leader act to maintain the movement's sense of a unique mission by upholding the doctrines and convictions which differentiate it from other movements and from the behavior it is attempting to change. As mobilizer, the leader is expected to be zealous in his commitment to the movement and intransigent toward groups in the society whose views and interests are not the same. He must reject the effort to moderate the gap between his movement and the positions of potentially friendly publics. He refuses to temporize with evil, to compromise principle, or to blunt sharp controversy. The leader as mobilizer is the soul and conscience of the movement.

As articulator, the leader must be prepared to meet halfway the publics and organizations of the total society. He must be able to find points of access to the major institutions even though they are hostile to change. To get a hearing in church, or school, or government he must be able to inspire some acceptance outside of the movement. As an ambassador he must be equipped to communicate between the movement and the society—representing to each the attitudes and interests and power of the other.

Leadership succession in the WCTU in the office of President shows us the appearance of each type of leader and the way in which one is a redress of the other. The data are drawn from the transition in presidents occurring in the mid–1950's and studied at that time.

For the ten years prior to the point of study the WCTU had

been led by a woman whose mode of leadership approximated the traits of the mobilizer outlined above. She played this role despite the fact that this was part of a period of organizational decline and rejection of Temperance forces in the American public. With the repeal of the Eighteenth Amendment the power and influence of Temperance organizations was greatly curtailed. Total abstinence and Prohibition were less acceptable doctrines than they had been in the 1920's and earlier. Even in Protestant church circles, the WCTU member found herself an object of ridicule and disapproval. The organization of women dedicated to the cause of total abstinence operated in a distinctly hostile environment.[6]

In this situation, the out-going president, Mrs. Z., was a picture of righteous steadfastness to principle. She upheld the centrality of Prohibition as a major aim of the organization, although other Dry groups deemphasized it. In enlisting support for total abstinence and for lesser restrictions on drinking, Prohibition had come to be defined as poor tactics by many Temperance people. Under the direction of Mrs. Z., however, the WCTU avoided alliance or cooperation with Alcoholics Anonymous and other associations which failed to accept the doctrines of total abstinence and Prohibition.

The style of her public speeches, in WCTU and in non–WCTU meetings, displayed an immense rectitude and fervor in the face of adversity. The following are examples:

> The WCTU has always been viewed as fanatical. A fanatic in people's eyes means a total abstainer. We believe in Prohibition rather than Temperance. . . . If we keep still then nobody is talking about it. (From a personal interview.)
>
> In order not to be considered narrow or unable to see both sides some of the Drys have allowed themselves to be maneuvered into accepting the idea that [total abstinence and Prohibition] is an old-fashion approach. . . . Between right and wrong there is only one ground and that is a battle-ground.[7]

By the zealousness with which she flayed her critics and upheld Dry doctrine, Mrs. Z. reinforced the public image of the Temper-

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[6] For a analysis of problems of the Temperance organization in recent decades see Joseph Gusfield, "Ideological Change and Status Conflict in the Temperance Movement," in Charles Snyder and David Pittman, *Society, Culture, and Drinking Patterns* (New York: John Wiley, 1962).

[7] *Annual Report of the National Woman's Christian Temperance Union* (1952), p. 85.

ance reformer as "too rigid." This posture enhanced the ridicule which the organization found in the public. When she announced her retirement, a leading metropolitan newspaper described her as an immensely rigid and devoted partisan, unable and unwilling to make concessions to opposing views, unwilling to participate in the processes of political debate and compromise. She was ridiculed as a "one-woman drought" and her retirement described as "hanging up the hatchet." [8]

Her intransigence and its effect on public acceptance of the WCTU were objects of criticism voiced by staff members and national officers. Mrs. Z. was described by several as "die-hard." She was seen as unwilling to broaden the scope of activities in which the organization was engaged. Among local units, at both state and city levels, two criticisms were directed against her. Her policy of open support for Prohibition and her unwillingness to cooperate with other groups interested in alcoholism problems incurred much disapproval. The support of Prohibition was especially a source of bitterness in one state. Here the state officers refused to use the term "Prohibition" in speeches or other literature.

Even those who criticized Mrs. Z. described her as a woman of forceful conviction. She was praised as especially adept in a debate against opponents and as a clear speaker in statement of the Dry cause. As a committed WCTU member and a Dry adherent, she was incomparable. What her WCTU critics questioned, however, was her utility to the organization as a vehicle of influence among nonadherents.

The demand for a redress of the balance between mobilization and articulation is seen in the expectations of the national staff toward the newly elected president, as well as in the criticisms leveled at Mrs. Z. Even before her inauguration, Mrs. A., the incoming leader, was sharply differentiated from Mrs. Z. in the eyes of the national staff. They stressed the divergent backgrounds of each and the implications this would have for WCTU policy. Mrs. Z. had been active in the Prohibitionist Party since her college days. Her husband was one of the leading figures in the Party, to which he gave all his time. She had few affiliations or interests outside of the Temperance movement. In contrast, the incoming president was married to a successful farmer and businessman. She was ac-

[8] *Chicago Daily News,* October, 1953, p. 3.

tive in a number of church and community organizations unrelated to the Temperance movement, although she had been in the WCTU since youth. She had spent a number of years as a public school teacher. It was felt that Mrs. A. could bring to the WCTU leadership the kind of contacts which were necessary to expand the influence of the organization.

The difference in the functions each woman was equipped to perform was also drawn in the stress the staff placed on the personal traits of each. Mrs. A. was described as friendlier, less jealous and less fearful of other groups than Mrs. Z. One staff member summed up the differences between the two in saying: "She [Mrs. A.] is not the fire-eating leader. . . . Mrs. Z. was a 'die-hard.' Mrs. A. is a 'club-woman.'"

In describing Mrs. A., the same newspaper that had ridiculed Mrs. Z. pictured the new president as a woman of tolerance and flexibility in the face of opposing views. She was described as "womanly and intelligent." "There's nothing militant or dominating about her. . . . Even when you talk to her about drinking she does not stiffen or drop her calm and understanding attitude," wrote the reporter.[9]

The ambassadorial qualities anticipated from Mrs. A. were those which are most useful in fulfilling the role of articulator. She was expected to be moderate in her hostility to those who did not agree with Temperance views. She was expected to find the common ground and the common goals which the WCTU might share with other organizations, within and without the Temperance movement. As an articulating leader, her role demanded that she act to improve the liaison between the WCTU and the public, "to win friends and influence people." She was to be the guardian of the acceptability of the WCTU to the parent society.

In an interview, Mrs. A. showed that she understood the nature of this role as articulator and that it was the dominant element in her concept of leadership. She saw her task as that of developing greater social acceptance, rather than as conserving the values and traditional goals of the movement:

We have been inept in selling ourselves to others who think as we do. We've sort of shelved ourselves in. We will cooperate more with other groups in the future. We must always keep in mind

[9] *Chicago Daily News,* December 9, 1963, p. 24.

that we represent the WCTU. We must act like ladies and be tolerant of other people—their minds.

Role-Set Conflict and the Articulation Function

The materials presented above might be thought of as support for the theory of leadership stages. This natural history approach posits a succession sequence in which mobilizing leadership is supplanted by articulating leadership as a movement matures. However, the WCTU is more than 75 years old and the Temperance movement has persisted through more than a century of agitation and controversy. We are dealing with a stable and organized movement. In order to study the demands generated by the role-set of leadership office we can examine the implications of articulating leadership. Although we were unable to gather data beyond the point of incumbency of the new president of the WCTU, historical materials have made it possible to study the ways in which successful articulation produces conflict between parts of the role-set represented by the internal and external areas in which leadership operates.

Frances Willard, the second president of the WCTU (1879–1898) provides an excellent case for examination.[10] She was probably the most successful leader the WCTU has ever had in "selling" the movement among groups and with institutions that until then had been indifferent, if not hostile, to the Temperance idea. In her career we can show that, in performing the articulating function, she developed a set of dual loyalties—towards Temperance and toward other movements—which led to internal opposition and demands that her behavior be more zealous and less compromising.

Frances Willard was the national secretary of the Woman's Christian Temperance Union from its inception in 1874 until her bid for its presidency in 1878. Her efforts succeeded in 1879 and she remained at the head of the organization until her death in 1898. She had not been deeply connected with either Temperance or church circles before her membership in the WCTU. In this

[10] This account of Frances Willard is based on a number of sources including the files of the WCTU weekly journal, *The Union Signal*, 1878-1900; the *Annual Report of the National Woman's Christian Temperance Union*, 1874-1900; *The New York Tribune*, 1875-1900; Mary Earhart, *Frances Willard: From Prayers to Politics* (Chicago: The University of Chicago Press, 1944); Rachel Strachey, *Frances Willard* (New York: F. L. Revell Co., 1913).

she was unlike most of the members and lesser officeholders in the organization. Although a "Johnny-come-lately" to the Temperance movement, she had a considerable reputation as a college educator, lecturer, and advocate of feminism.

The fact that she was not representative of the WCTU membership enabled Miss Willard to gain access to areas and audiences in which the movement usually found it difficult to penetrate. The type of person who is marginal to the culture of the membership is often especially equipped to perform articulating functions because he has the requisite skills, knowledge, and entree into positions and institutions in other parts of the social structure than those now occupied by the adherents of the movement.[11]

Willard performed the articulation functions with considerable success. During her years as president the WCTU achieved great growth in numbers of members and became a highly respected social welfare organization. The organization was identified with many movements, especially the woman's suffrage movement. These additional interests and movements proved an important source for recruitment of new members and subsidiary leaders. Willard was also able to present the Temperance cause in non-Temperance areas such as the People's Party convention and in labor union journals. Her manners, education, and personality opened doors for her in upper-class homes, and she was successful in gaining large financial contributions to the cause. She had a talent for influencing significant public opinion. Although the South was still quite cool to the Temperance movement, and most opposed to the entrance of women in public affairs, Frances Willard received an unusual amount of enthusiasm and organized WCTU groups throughout the South. The leading national newspaper of the late nineteenth century, *The New York Tribune*, was generally critical of Temperance and its leadership. Willard, however, was always given good coverage in news and warm praise in the editorial columns.

The very attributes which enabled Willard to build and maintain liaison with the total society also led to frustration of some of the major commitments of the movement. Three affiliations were especially prominent as sources for loyalties and commit-

[11] A similar process has been observed in the early leadership of the Zionist movement. See Lester Seligman, "Theodor Herzl—The Outsider as Political Leader" *Commentary* (September, 1950).

ments which clashed with WCTU doctrines. One of these was the welfare orientation through which Willard attracted many recruits to the WCTU. As her presidential tenure increased she became more and more involved in Populist, Labor Union, and Christian Socialist circles. Ultimately she was "captured" by these movements and came to reconsider the Temperance doctrine from the standpoint of these orientations. In 1894 she committed the deepest of doctrinal heresies by maintaining that poverty was a major cause of intemperance, rather than the other way around—that intemperance was a major source of poverty. Such an admission of institutional factors as primary is a betrayal of fundamental Temperance beliefs in the importance of character. She repeated this view on several occasions in the following year.

A second source of dual loyalties was Willard's commitment to female suffrage and the feminist movement. Largely because Willard was involved in the feminist movement, the WCTU had utilized a female financier in building their office building in downtown Chicago. The deal was financially disastrous for the WCTU and much might have been salvaged had the WCTU withdrawn its economic support earlier, when the damage was evident. Since the financier was a woman, however, Willard felt obligated to risk more than she would have done with a male promoter.

The third source of conflict between the internal functions of mobilization and the external ones of articulation was more personal. In travels in Britain, Willard had been accepted into a circle of British Fabians and temperance reformers, largely of upper-class life styles. She spent much of two years living in the homes of these people. Although they made financial contributions to the WCTU, they opened her to a charge that she was becoming "snooty" and British. She became a close friend of Lady Henry Somerset, the British Temperance leader. This placed a distinct strain on her relations to her own WCTU members when Somerset openly supported licensed prostitution on British military outposts in colonial areas. (It should be remembered that British voluntary associations were chiefly led by titled persons. The Temperance movement in England was less middle-class in social composition than in America and consequently more permissive and welfare-oriented toward drinking and moral behavior.)

These three events occurred in the years 1893–95. The demand for a more mobilizing leadership appeared in the form of a move-

ment within the WCTU for the ouster of Frances Willard. Although she was the most popular and powerful leader in WCTU history, she was still forced to moderate her warmth toward her non–WCTU friendships and alliances. She stopped utilizing the Socialist theory of drinking, withdrew support to the female promoter, and denounced the views of Lady Somerset. Her power was weakened in the organization and opposing factions were emerging at the time of her death.

The needs for articulation in leadership were, if anything, even greater in the 1890's than in the 1880's. The political struggle for Temperance legislation was not as intensive as that of the 1880's. The organization was well beyond its initial stage of organization. A "natural history" approach would suggest a change toward a less zealous leadership. Instead the demands arose for curbing liaison. We are maintaining that Willard's behavior in the 1890's represented a swing toward one of the components of the leader's role-set: the articulation role. In carrying out sanctioned roles as an articulator of the organization, she was subjected to the demands and loyalties of diverse movements and organizations. These brought her into conflict with the mobilization component of the leadership role-set.

The vulnerability of the role-set to conflict follows from the nature of the liaison function. Whatever the initial commitments of the leader, in order to communicate and interact with persons he must be able to communicate, to "take the role of the other" and to assume the perspectives of those with whom he interacts. If he attempts to persuade his following to accept a compromise or a change initiated by outside groups and forces, he may come to play "the devil's advocate" and transmit to the adherents the power position, ideologies, and problems of the out-groups. Diplomats must be friends to enemies. Their treason is always suspected and their loyalty must be underlined on the domestic shore.

Role-Set Control and Leadership Functions

Until this point we have conceived of leadership as a status within an organized group, manifest in an office. However, a functional appraisal of leadership leads us to recognize that the duality of functions and of role-playing areas contains the possibility of conflict over the definition of the leader. This is a conflict between the external and the internal areas when leadership is conferred

in one but rejected in another. The public may accept as the leader of a movement someone whom the organized segments of the movement have rejected. The "popular hero" may perform a considerable amount of articulating or even mobilizing functions without having the imprimatur of an official position. Such a person is able to perform functions in one area without being subject to the controls of the other parts of the role set.

Carrie Nation is a vivid example of this form of role usurpation.[12] She is probably the most widely known woman who has ever been a member of the WCTU. Although she occupied a most minor position in the organization, from which she was displaced, she had a great impact both as a public symbol and as a mobilizer of Temperance enthusiasms.

In the period 1900–1903, Mrs. Nation was frequently an object of national attention. Her direct crusade against the saloons of Kansas was front-page news. In fact, she was the only one of the WCTU figures, including Frances Willard, in the period 1875–1915, whose activity was reported on the first page of the *New York Tribune*. At the time that she began her "hatchetations" (as she called her assaults on saloon property), Carrie Nation was WCTU county president in a small Kansas county. This was the highest office she ever held in the organization. The year after she began the attack on Kansas "joints" even this position was withdrawn from her and she stopped attending state WCTU conventions.

Nation was partially successful in usurping leadership functions. As an articulator she became the personification of the female Temperance reformer, the representative of the movement in public imagery. As such, she has affected the acceptance of the movement in the areas of public opinion. Without a definite following within the organization, and without holding major office, she performed a leadership function by representing the movement to the larger public. In this her marked intransigence, direct attack, and vituperative language were a sharp contrast to the more tolerant, feminine, and welfare approaches of both Frances Willard and Lillian Stevens, who was then president of the WCTU.

The qualities which marked Carrie Nation enabled her to perform mobilizing functions with considerable skill. She developed

[12] This account of Carrie Nation is based largely on the files of the *New York Tribune*, 1900-1903; *The Union Signal*, 1900-1903; and Carrie A. Nation, *The Use and Need of the Life of Carrie A. Nation* (Topeka: F. M. Stevens & Co., 1905).

followers from within the WCTU and from circles generally friendly to Temperance reform. She was highly instrumental in reversing an earlier state referendum on Prohibition enforcement. Her conduct served to activate electoral support in favor of the Prohibition measures.

The usurpation of role presented a difficult problem for the incumbent WCTU leadership. Because she was successful in mobilizing an enthusiastic sense of Temperance mission, open rejection would have antagonized Mrs. Nation's followers within the WCTU and in other Temperance circles. The shifts in the WCTU "line" toward Carrie Nation show an initial outright rejection of the usurper and a later endorsement as she gained in power among Kansas Temperance followers. After Nation's first attack on a saloon, the president of the Kansas WCTU repudiated her acts and publicly disassociated the WCTU from them. The yearly listing of Kansas officers omitted her name from the county offices, although Nation, according to her autobiography, still considered herself county president at that time. The WCTU national weekly journal carried no items about her until after she had become national American news and those items gave little space or support to her. After several months, during which she had proven a powerful mobilizer of Temperance sentiment, WCTU editorials were favorable to her although her work was never specifically endorsed nor supported by WCTU action. No attempts were made to persuade her to take her old office or any other in the WCTU nor did the organization aid her work through their organizational facilities.

Mechanisms for Minimizing Role-set Conflict

We have described the divergent roles demanded of leadership which arise from the different roles in the leadership set. These roles of mobilization and articulation are performed in different areas—internal and external environments. We have seen strains in leadership behavior resulting from two different kinds of conditions. In one type, as in the case of Mrs. Z., the personality and social background functionally required for mobilization is not adapted to the functional requirements of articulation. In another case, that of Frances Willard, the divergence in role demands created a dilemma in which appropriate behavior with one group of role partners subjected the leader to negative responses from the other group of role partners.

The leader of the social movement is probably more prone to experience this strain than is the leader in other organized enterprises, such as businesses, government agencies, or universities. This is so because the movement has a sharp sense of doctrine and mission, raising the demands for mobilization, and at the same time a hostile environment whose institutions and support is needed for access to power and to the means of public persuasion. The disjuncture between ideology and the adaptive problems of the movement constantly raises the issue of too much or too little accommodation; of renunciation of the mission or overrighteous inflexibility.

From a wide range of organizations, we are aware of several mechanisms by which the tensions within leadership role-sets have been minimized. In order to minimize role-set tension in the leadership situation, functions of both mobilization and articulation must be performed at a maximum without the performance of one threatening the performance of the other. This is substantially Merton's "problem of identifying the social mechanisms through which some reasonable degree of articulation among the roles in role-sets is secured. . . ." [13]

Minimal Visibility. One of the devices often resorted to by leaders depends on preventing behavior in one area from being observed by those in another area. The leader will speak to the membership in a different tone and content than used in speaking outside of the group. Government leaders, especially in the area of foreign policy, often speak one way for domestic and another way for foreign audiences. This device is especially vulnerable to breakdown where the leader must communicate the realities of external opposition and the viewpoints of hostile groups to the membership. If he attempts to adapt organizational doctrine to the adaptive needs set by external forces he is beset by the call of "softness."

Insider Pose. A great deal of seemingly disloyal behavior is often "excused" if the observer believes that it represents only a temporary expedient in the strategy of gaining the accepted goal rather than a stable set of commitments which contradict ideological or doctrinal principles. The leader may convince the membership that his seeming disloyalty was only an essential "tactic" in maintaining the group in power. One way of doing this is the

[13] Robert K. Merton, *op. cit.*, p. 371.

rhetorical device of "taking the other into your confidence." Thus union leaders or leaders of minorities "explain away" compromise behavior by saying that it was necessary to help maintain power within the group of non-adherents. The posture here is one of making the internal membership part of the "boys." The membership is told that while to others it looks one way, to those "in the know" it is not the case.

Going one step further in this device, it is possible to play the same game in more than one area, convincing external groups that a given act was only undertaken to secure one's office and convincing internal membership that a given act was merely "tactical." Management has been known to grant favorable terms in bargaining with a union in order not to undermine the position of a union leader in his own internal factions. It is a typical posture taken by partisan adherents in presidential campaigns. Faced with acts or statements which belie the sources of commitment to a candidate, adherents are often mollified by oblique party communications suggesting that the disapproved acts are "mere campaign tactic."

Separation of Functions. The solution to the problem of dual functions developed among the small groups studied by Bales was that of dual leaders. A similar process of division of leadership labors often occurs in organizations. The different roles within the role set are allocated to different persons and the tensions between the two partly avoided by recruitment of persons highly able and adapted to the one function although ill-adapted to the other. In educational and governmental structures it is often the case that a nominal leader becomes responsible for "public relations" while mobilization of the internal resources is left to some other office. The opposite may also be found, where the nominal leader concentrates on internal mobilization, and articulation is the province of another office. Such arrangements do not eradicate the conflicts within the role-set but they do provide a mechanism to ensure greater capacities for performance of each role and to minimize visibility.

Cycles and Stages. If we view a role set as a series of patterns through which functions are performed we can describe such performance in terms of the career of an organization, as well as the behavior of individuals. The natural history approach to leadership in social movements has maintained that in the early stages of a movement the leader is most adept at mobilization. This is

the function most demanded by the situation of establishing a movement in the face of apathy, fear, and hostility. At a later stage, when administrative needs and accommodative attitudes are functional, the mobilizer gives way to the articulator or the administrator.

The natural history approach does not lend itself to the stable persistent movement, such as the WCTU. We have seen leadership succession and role-set tension at historical points well beyond the inception of the movement. We have emphasized the fact that *both* mobilization and articulation are functions demanded of leadership in a persistent movement. A cyclical sequence of leadership types is one solution to the role-set problem over a long period of time. In this "solution," leadership is oriented toward one or another of the two functions and areas described. The effort to fulfill one function, however, generates strains within the organization which result from the failure to perform the other function adequately. Forces within the movement or organization move for a new leader who will "consolidate gains" and maximize the neglected values. Since it is difficult to recruit persons who can perform both roles at a high level of competence, the same consequence of role-starvation is apt to occur in the opposite direction. The "virtuoso leader," whether mobilizer or articulator, creates tensions and disaffections within the organization. The resultant cycle of leadership perpetuates the functions of each role within the set by a succession of leaders rather than by a combination of qualities within a single leader.

Colorless Leadership. Perhaps the more common solution is an endless compromise between the two horns of the dilemma. The holder of a leadership office may perform each of the functions at a level of minimal competence but not do either as well as the specialized virtuoso. Most Temperance leaders have not been Frances Willards or Carrie Nations. The leader, in this bureaucratic fashion, is a figure acceptable to all but not enthusiastically received by any. After all, with most typologies a large percentage of all the cases are mixtures. Mediocrity is the expected and not the unusual occurrence in life.

The Universal Dilemma of Leadership Role-Sets

Our discussion of the triangular relationship between leader, internal structure, and external environment has stressed the diversity

of demands placed on leadership. The resultant behavior is *not* a consequence of specific situations. The components of the role set are persistent aspects of organized groups which must operate within more than one social system. This is common to many kinds of organizations, of which social movements are but one. The problem arises from a general and persistent need for internal authority, supervision, and morale at the same time as a need for control of external forces which shape and limit the organization.

Failure to understand the persistence of divergent functions within the leadership role-set leads to the familiar "surprise reaction" with which observers frequently respond to new leadership after a short period. Two usual reactions are summarized in the phrases "betrayal of leadership" and "development of responsibility." These two myths appear chronically in modern organizations. The shop-talk of academics about educational administrators suggests that the new leader disappoints and astonishes. Those who saw in him the personification of all their deeply-held values find that he has begun to change. He begins to respond favorably to pressures against which he had fought. His once eager followers now feel betrayed. On the other hand, those who saw in him the great *bête noire* now also find that he has changed. They discover a finer pliability and a greater tolerance to other views. They say that he has "developed into a responsible leader."

Small Group Studies and Complex Group Leadership

In discussing role-set conflict in a social movement or other highly organized group, it must be clear that we define leadership in formal terms, as an office. Studies of role differentiation in small groups have largely dealt with the development of informal rather than formal statuses. The factors which make possible a sharing of leadership in small groups are less in evidence in the large organization. The fact of formal office brings into play the power which the formal status possesses. It is the fact of power, or imputed power, which partly enables the leader to represent his movement or organization in the external environment. He appears to the world as someone who has influence with his membership.

There is also another sense in which the conclusions of small group studies are not directly pertinent to the more complex level of group life represented by the social movement. Both mobilization and articulation are adaptive functions. A movement must

both maintain its mission and temper its enthusiasm. Both functions are aspects of task leadership. In this paper we have given no consideration to the multiple aspects of internal leadership. Our emphasis has been on the duality of areas and audiences in which the leader operates in carrying out the tasks of the organization. The functions discussed here are therefore not direct parallels to task needs and social-emotional needs as these have been developed in the literature of small groups.[14]

The bridge between these two levels of analysis, however, lies in the conception of leadership common to both. In our analysis of a social movement, as well as in small group studies, leadership emerges as a set of functions and corresponding roles.[15] In this way, there is a unity of conceptualization. A functional conception of leadership, we maintain, is a better tool for the analysis of the social movement than are analytical schemes which depict leadership as a specific role residing in a specific person.

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[14] Robert F. Bales and Phillip E. Slater, "Role Differentiation in Small Decision-Making Groups," in Talcott Parsons and Robert Bales, *Family, Socialization, and Interaction Process* (Glencoe, Ill.: The Free Press, 1955).

[15] The application of this conception of leadership to political offices can be found in David J. Danelski, "The Influence of the Chief Justice in the Decisional Process of the Supreme Court" (unpublished manuscript).

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THE GROUP PROCESS

I. The Group and the individual.

II. What is a group?

A collection of people with a common problem or concern which has assembled to meet the problem or concern.

III. Types of groups.

A group falls generally into one of two categories:

1. It is a decision making body,or
2. It is seeking clarification and information without reference to decision making.
3. Its character may change with changes in purpose, size, frequency of meeting.

IV. The group process.

The group process in discussion involves, at least the following concepts, if growth of the group through discussion is to result.

1. Awareness by the group of its goals.
2. A clear definition of the problem.
3. Information on the problem.
4. Participation.
5. Interaction.
6. Direction or movement toward the goal.

V. Stages of group growth.

1. Infancy - dependence on one leader.
2. Adolescence - rebellion and growing confidence.
3. Maturity.

VI. Characteristics of mature groups.

1. It communicates.
2. It pursues organized thinking.
3. It keeps to the topic.
4. It restates the problem.
5. It evaluates ideas.
6. It summarizes progress.
7. It develops group memory.

VII. The mature group member.

1. Accepts the goal or leaves.
2. Puts group success above own interests.
3. Thinks about the problem.
4. Asks for clarification.
5. Listens to the other fellow.
6. Encourages the other fellow.
7. Questions group direction and timing.
8. Relieves tensions.
9. Differs courteously.
10. Acknowledges his own errors.

VIII. Techniques for developing group maturity.

1. Initial orientation.
2. Good leadership.
3. Observation.
4. Group analysis.

IX. Practice session with group.

Group asked to choose problem for discussion. Instructor serves as discussion leader, and analyses for group what has taken place during its discussion of the problem in terms of the principles of the group process.

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"PROJECT UNDERSTANDING" QUESTIANNAIRE RESPONSE

The following question was sent in December, 1967 to the 400 participants in one or more of five "Project Understanding" workshops sponsored by the National Conference of Christians and Jews in Milwaukee over a previous two and a half year period. There were 143 individual responses.

QUESTION:

As a result of your workshop experience, do you feel you behave in a different way than you did before? That is, have you engaged in any new kinds of activities, or involved your family in new experiences, or said or done anything you wouldn't have done before?

RESPONSES:

8 - No.

17 - No, because they were already involved.

67 - Because they now have the facts, they also have the courage to SPEAK UP! SPEAK OUT!
Comment: "I probably have never made so many enemies, but I like myself better."

3 - Relayed highlights of each address to husband and family.

3 - Encouraged people to attend the Workshops.

2 - Would like to work on "Project Understanding" committees, etc.

8 - Arranged a program on prejudice for one other group to which they belonged.

1 - Got Dr. Robinson (Workshop Director) to speak to Business and Professional Women to widen his sphere of influence.

1 - Called Library about books on Negro history.

1 - Brought home children's books for family.

1 - Read books on the subject.

1 - Bought "Crisis in Black and White" and gave it as Christmas gifts to all her friends and family.

1 - Follows the local situation in the news more closely to stay informed.

1 - Contributed money to NAACP.

19 - Worked for open housing ordinance - circulating petitions, etc.

8 - Wrote letters - to aldermen, state legislators, "The Editor", etc.

1 - Arranged Parish Christmas party for 150 Headstart people.

1 - Arranged three programs:
January - Family mixer at St. John's Cathedral for Catholic and Protestant interracial families.
February - Fellowship with Negro Baptist Church (second visit)
March - Dialogue at Juneau Village - Father Neuberger and Pastor Gustafson.

3 - Gave talks about the Workshop.

1 - Attended School Board meeting - plans to attend court sessions also.

2 - Attended "police brutality" meeting.

1 - Attended Village Board meeting.

2 - Joined "FRIENDS" - interracial, ecumenical group.

1 - Joined "South Side Citizens for Equality"

1 - Joined NAACP.

2 - Joined local Human Relations group.

1 - Joined Saturday afternoon group which provides activities for "inner core" children.

2 - Joined Milwaukee Council for Fair Housing Legislation and Education.

2 - Tutor at St. Elizabeth's.

1 - Teaching Aide every Wednesday at Victor Berger School.

2 - Volunteer workers in Fair Housing office.

2 - Took Laubach course - "Each One Teach One."

1 - Volunteer at "Inner City Library Project".

1 - Works once a week at Community Center at "Hell's Corner" - 20th and Walnut.

1 - Works half day a week at Center for Civic Responsibility.

1 - Will teach Vacation Bible School at church in inner core next summer. Her children will attend, as they have never had any contact with Negro children.

1 - Organized "Youth, Inc." - non-profit organization.

1 - Worked actively in School Board election.

1 - Attended NCCJ Dinner for Mr. Terry.

1 - Will continue to donate clothes to schools' Social Work Department.

1 - As Girl Scout leader, had previously signed up troops to facilitate friendships between Scouts from inner city and those from other areas. As result of Workshop, has now brought the <u>adult leaders</u> together.

1 - Trying to get Whitefish Bay PTA to sponsor a workshop.

1 - Trying to get a similar workshop started within AAUW.

1 - Working on getting a workshop sponsored in southeast suburb.

1 - One of the founders of Elmbrook (Elm Grove - Brookfield) affiliate of West Suburban Council of Human Relations.

5 - MARCHED!

1 - Got her HUSBAND to march on the 100th night!

4 - Have met Negroes socially for the first time; become friends.

1 - Trying to get Negroes to move into Whitefish Bay, especially into her block.

1 - Had her children play with Negro Children.

1 - Her child is the only white child in the Headstart Project she attends.

2 - Had meetings of Negro and white women in their homes.

1 - Godparent to a Negro child.

1 - "I treasure two really good friendships started at the Workshop."

1 - Sold home in suburbs and moved to integrated neighborhood in the city.

3 - "It opened my heart. Now I put myself in the other person's shoes."

2 - Applied for adoption of Negro child.

One day Inst. focus
Agnes 5 point p. 2
use these in focus on 1 day inst. — encourage sense of accomplishment

Emory Via

what level of group

INSTRUCTORS' TRAINING INSTITUTE

Instructor sees Students outline — Put them on demonstration — Stress important

for Amalgamated Meat Cutters and Butcher Workmen, AFL-CIO
conducted by Labor Education Division, Roosevelt University

MONDAY, APRIL 23

9:15 - 9:30	Welcome Frank McCallister Earl W. Jimerson, International President Harry Poole, International Vice-President	
9:30 -10:15	Program of the Amalgamated Purpose and Goals	Helmuth Kern
10:15-11:00	Trends in Training Executive Training for Management Leadership Training for Unions	Frank McCallister
11:00-11:15	Coffee break	
11:15-12:15	Face to Face Communication	Mrs. Bess Sondel
	LUNCH	
1:30 - 2:30	Face to Face Communication (continued)	Mrs. Bess Sondel
2:30 - 3:30	How People Learn	Mrs. Ruby Franklin
3:30 - 3:45	Coffee break	
3:45 - 5:00	Leading Group Discussions	Mrs. Agnes M. Douty
5:00 - 5:30	Workshops	Victor Gotbaum Frank McCallister

Do you ever stop a man before through with performance — if clearly unprepared, perhaps

Small groups meet with leaders to work out approaches to leading discussion for practice sessions Tuesday and Wednesday. Two in each group chosen to lead discussion Tuesday. Remainder for Wednesday.

All sessions of the conference, with the exception of Tuesday morning, will be held at Loyola Field House, 1233 W. Greenleaf (at Sheridan).

Sensitive to others faults
watch for dogmatism, because patterns vary so.

How to shut up discussants
[Setting frame: all discuss]

TUESDAY, APRIL 24

** 10:00-11:00	The Group Process Principles	Miss Ruth Warncke
11:00-11:15	Coffee break	
11:15-12:15	The Group Process (continued) Application	Miss Ruth Warncke
	LUNCH	
2:00 - 3:00	Workshops Practice session. Two students lead discussion (20 minutes). Each appraises, group appraises. Instructor appraises.	Frank McCallister Victor Gotbaum
3:00 - 3:15	Coffee break	
3:15 - 5:15	Techniques and Practice of Questioning in Leading Discussion	Seymour Mandell

** Tuesday morning session will be held at Union headquarters, 2800 N. Sheridan, The Library.

Tuesday afternoon session resumes at Loyola Field House.

WEDNESDAY, APRIL 25

9:15 -10:45	Role Playing and Visual Aids	Frank McCallister
10:45-11:00	Coffee break	
11:00-12:15	The Buzz Session	Mrs. Agnes M. Douty
	LUNCH	
1:30 - 3:00	Workshops Practice sessions. Each student leading discussion for 15 minutes.	Victor Gotbaum Emory Via
3:00 - 3:15	Coffee break	
3:15 - 4:30	Workshops (continued)	Victor Gotbaum Emory Via
4:30 - 5:15	Workshops Groups to meet to select subjects for practice next day, using all methods demonstrated. (Role playing, buzz sessions, panel and group discussion.)	Robert Ahrens Emory Via

1:45 = 105 mins
= 75 mins

60 mins
(80)

Panel — 20 mins

Role — 15 mins

Buzz — 20 mins

Discussion — 15

3 discussions

Ray Jackson

Ho 56800

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THURSDAY, APRIL 26

9:15 -11:00	Workshops - Practice	Robert Ahrens Emory Via
11:00-11:15	Coffee break	
11:15-12:30	Workshops	Robert Ahrens Emory Via
	LUNCH	
1:45 - 3:00	Workshops Practice sessions.	Robert Ahrens Victor Gotbaum
3:00 - 3:15	Coffee break	
3:15 - 4:45	Sources of Information for Institute Instructors	
	Union and Governmental.	David Dolnick
	Services Available Through the Public Libraries	Miss Ruth Shapiro
4:45 - 5:30	Workshop Planning	Helmuth Kern Victor Gotbaum

Via

FRIDAY, APRIL 27

9:15 - 9:45	The Grievance Process	John I. Powderly
9:45 -10:45	Workshops	Helmuth Kern Victor Gotbaum
	Practice sessions. (15 minutes each) 1) Leading a Discussion: Is it a Grievance? 2) Role Playing: Writing up the Grievance.	Resource: John I. Powderly
10:45-11:00	Coffee break	
11:00-12:00	Workshops	Mrs. Agnes Douty Victor Gotbaum
	Practice sessions. Resource: Leading a Discussion: How to get the facts. (2)	John I. Powderly
12:00-12:30	Preparation for Evaluation Session	Frank McCallister
	LUNCH	
2:00 - 3:00	Workshops (A and B merged)	Mrs. Agnes Douty Victor Gotbaum
	Practice sessions. Resource: 1) Leading a Discussion: How do we get facts: for Case I (2) Case II 2) Leading a Discussion: How should a steward behave in relations with foreman on step one.	John I. Powderly
3:00 - 3:15	Coffee break	
3:15 - 4:15	Workshops	Mrs. Agnes Douty Victor Gotbaum
	Practice session. Resource: Role Playing on Step Three: (Local and Management)	John I. Powderly

SATURDAY, APRIL 28

9:30 -11:30	Evaluation of Training Session	Helmuth Kern Frank McCallister Mrs. Agnes Douty Victor Gotbaum

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LEADING GROUP DISCUSSIONS

Agnes M. Douty, Ass'st. Director,
Labor Education Division

I. Who Can Be A Discussion Leader?

A. Any intelligent person can learn to lead group discussions if:
1. He believes in the "value of taking counsel with one another".
2. He understands that "talking is not always "teaching" and "listening" is not always "learning".
3. He is more concerned with what happens to the group, than with his own status as a leader.
4. He is aware of the different purposes which group discussion can serve (exchange information, formulate or alter attitudes, formulate policies for group, release tension, etc.).
5. He is willing to learn the techniques which improve group discussion.
6. He is willing to do the advance preparation which is necessary to insure good discussion.

B. Amplification of Points 2, 4, 5, 6.

II. What are Your Responsibilities as a Leader

BEFORE THE DISCUSSION

A. Preparing
1. Selecting a meaningful subject (alone or with others).
2. To inform yourself about group (its composition, size, purpose, attitudes).
3. To inform yourself on the topic to be discussed.

B. Organizing
1. Narrowing down the area or phase of subject to be discussed.
2. Applying knowledge about the "process of reflective thinking" to planning the development of the subject when discussion takes place.
3. Preparing an outline to serve as a guide during the discussion itself.

Group exercise in organizing for discussion:
Let us say that you have been asked to lead a discussion on the "Guaranteed Annual Wage" or "Automation". We will all agree that these, as stated, are broad subjects.

What considerations would play a part in your attempt to narrow the subject down?

How would you proceed to narrow it down?
How would a knowledge of the steps in the "thinking process" help you organize yourself and your outline for the discussion to take place in the group later?
Here are the basic steps:

1. Defining the problem or subject.
2. Describing the problem (analyzing, bringing out facts and opinions).
3. Arriving at possible solutions.
4. Evaluating the solutions (accepting, rejecting, choosing).
5. Translating into an "action" program(if necessary).

Basis for critique & for one day institute focus

C. Guiding

DURING THE DISCUSSION

1. Put the group at ease.
2. Clearly define the area or problem for discussion, an introductory statement on it as a springboard for discussion by the group.
3. Start the discussion by clearly phrased question or questions.
4. Keep it going, keep it relevant.
5. Encourage widest possible participation and interchange.
6. Help clarify and relate group's ideas as it goes along.
7. Summarize from time to time as necessary.
8. Stop at its most fruitful point in terms of the group's goals.

AFTER THE DISCUSSION

A. Self-appraisal of performance.
B. Planning for improvement of the next one.

III. What Are Your Tools?

1. Yourself and your basic attitudes.
2. Your "homework".
   a. Gathering information.
   b. Preparing your outline (questions, et al.)
   c. Utilizing available teaching aids (printed, audio-visual).
   d. Securing resource people.
3. A critical approach to your own and the groups' performance and progress.

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Techniques of Questioning

S. Mandell, Assoc. Prof., Roosevelt U.

Objective: To aid the discussion leader in mastering the use of questioning for purposes of group leadership and group stimulation in discussion.

Topical Outline:

1- Introduction to the tool called "questioning"

2- Uses of Questions

3- Types of Questions and a determination of the proper question technique:

a. leading
b. factual
c. direct
d. general or overhead
e. ambiguous
f. controversial
g. provocative
h. re-directed
i. yes and no
j. why, when where and what

4- Key words in questions

5- Hints on art of questioning

6- Case studies for discussion

7- Summary of the use of questions

Procedure: Lecture and guided discussion

KEY WORDS FOR QUESTIONS

CLASSIFY	Demands the assembling, arranging, distributing, and grouping of facts according to some common characteristic.
COMPARE	Requires the detection of resemblance and difference among facts.
CRITICIZE	Exacts good judgment, and a careful analysis of a subject.
DEFINE	Necessitates the determination of boundaries or limits to a subject and the fixing of a clear meaning.
DESCRIBE	Calls for the selection and portrayal of the features or qualities which characterize a subject.
DISCUSS	Compels a minute examination of a subject presenting pro and con considerations and adducing arguments in supporting a position.
EXPLAIN	Makes necessary a clarification of any points which may obscure a subject.
ILLUSTRATE	Calls for examples that will explain or clear up the subject under consideration.
INTERPRET	Necessitates bringing out the meaning of a subject in the light of an individual's belief or judgment.
JUSTIFY	Demands showing that a thing is reasonable or warranted.
OUTLINE	Makes necessary the sketching or indicating of main points.
REVIEW	Compels going over a subject deliberately and giving it a critical examination.
SUMMARIZE	Asks for the presentation of a subject in a concise and compact manner.
TRACE	Requires following in detail the development or progress of some subject.
VERIFY	Exacts proof that a thing is true.

A CASE PROBLEM: How we can develop questions during preparation for a discussion

by Seymour I. Mandell

You as a vital force in your union's affairs believe that it would be desirable to interest members of your local in greater participation in community activity. Therefore, you have decided something must be done to accomplish this result.

Step One: PREPARATION FOR THE DISCUSSION: In preparing for a discussion it is necessary for you to raise certain QUESTIONS:

1. what is the objective for this discussion?

2. what is the value of this objective?

3. why should this problem be opened for discussion?

4. how can I best put over the idea of "participating in community affairs" to the group--by issuing an order saying everyone must participate in community affairs; by discussing this matter with the persons involved so that we can fully establish the value of such action.

5. who will be the members participating in the discussion? are any of them now involved in community affairs?

6. are there any union communications, suggestions, etc. on this matter which will be useful in developing the subject?

COMMENT: Now let's examine what has been done. We have recognized the need for information (questions 1-5-6); we have recognized the need for developing our ideas on the subject (questions 2-3-4) and we have recognized the possible ways in which the idea can be best put across (question 4).

Step two: GATHERING THE INFORMATION: Let us examine one of the points raised in step one to determine what type of information we need:

1. Our subject is "Union members participation in local community affairs".

2. Immediately we see a need for defining words: participation, community affairs.

3. We also recognize that the Union may have some information about this subject or communications on the subject so we seek such information.

4. We also recognize that we should obtain information on the personal activities of some of our members in community life.

5. We must obtain information on types of community affairs and organizations which exist.

Step Three: DEVELOPING THE PRESENTATION:

1. We weigh the advisability of "issuing an order" as opposed to "having a discussion" and determine that the whole subject would become more meaningful if we hold one or more discussions on this subject.

2. We have information on the types of community affairs and organizations which exist in our area. We now determine to make up a list of these on a chart for presentation before, during or after the discussion.

3. Now that we have decided to hold a discussion we must determine questions to use to stimulate interest in the discussion, to guide the discussion toward our objective (to show the desirability for greater union member participation in community affairs and organizations), etc.

4. QUESTIONS: Major

   a. "Is it important for our members to actively participate in community affairs and organizations?"

   b. "Should our members actively participate in community affairs and organizations?"

      NOTE: let us examine the two questions--will we get the same type of response to both (a) and (b)? The major difference seems to be in the emphasis on important in (a) and therefore the member of the discussion will be weighing important rather than the word active which is emphasized in (b).

   let us examine these questions again--what kind of an answer can we expect to either question? probably YES or NO and nothing more

   now if we are interested in developing a discussion, the leader would have to immediately say WHY?

   so we rephrase the question to eliminate the YES or NO response and to start thinking and active response:

   c. Why is it important to have members of our local participate actively in community affairs and organizations?

      NOTE: let's see what we have done--we have forced the person to think and give reasons; we have guided him toward "important" and "active" at the same time; we have created a good overall question which advises the group of the subject for discussion, stimulates thinking and guides the discussion.

5. QUESTIONS: Minor--or development questions

   Note: now let's examine the discussion and make note of questions that should be answered during the discussion:

a. Factual questions will be needed for an explanation of certain words and ideas in the general question:

1) what do we mean by community?

2) how would you define the term "active participation"?

3) can you give examples of community affairs?

4) can you give examples of community organizations?

(through the use of this type of questioning you as discussion leader will have developed the information necessary to guided discussion on "important to have members participate actively" and you will have developed a common basis for everyone's thinking)

b. Someone may ask: "Does the Union believe that we should participate in community affairs?" or "Is it Union policy that we do so?"

And for this type of question you might well use a re-directed question such as: "Well let's see, do we find that Union directives have suggested that our local be recognized as an important contributor to community growth?" If the answer is YES then you should follow this with "Why?"

6. QUESTIONS FOR SUMMARY:

Note: it now becomes necessary for you as discussion leader to consider how best to draw conclusions at the end of the discussion period.

a. One suggestion is: "Now let us restate the first question we have raised for this discussion: Why is it important to have members of our local participate actively in community affairs and organizations?" How can we summarize our ideas on this subject?

Let's see what we accomplish with the above: we have stated that we want to summarize; we have reminded the group of the major question so that they remember the subject, remember and understand how to direct their thinking for the summary and thereby have made the summary more meaningful.

Dead-serious Walter P. Reuther takes oath at McClellan probe.

CONGRESS INVESTIGATES THE UAW...

Reuther Request Started It

Back in January, when the Kohler investigation was first discussed, Walter P. Reuther wrote the following letter to Robert F. Kennedy, chief counsel of the McClellan committee:

Mr. Jack Conway, my administrative assistant, has advised me of his conversation with you concerning the forthcoming hearings involving the UAW and the Kohler Co. as it relates to the Kohler strike.

As we have advised Senator McClellan, we are prepared to cooperate in every possible way to facilitate a fair and objective hearing of all the facts. I have asked Mr. Conway to continue to cooperate with your office and your staff so as to make available any pertinent information or data which you may need for those hearings.

In addition to cooperating in every possible way to facilitate your work as it relates to the activities of the UAW as an organization, I have repeatedly indicated a willingness to have the committee check into my personal financial matters. To date, to my knowledge, no one from your committee has made any efforts to inquire into my personal financial affairs and I can understand the reluctance of the committee to do so in the absence of any question or allegation being raised concerning my personal affairs.

Since as president of the UAW I will undoubtedly be involved in the Kohler hearings, I would feel much more comfortable if in advance of the hearings you would find it possible to assign a member of your staff to check into my personal financial affairs. I should be most happy to cooperate with such an investigation and will make available to your staff all of my personal financial records.

"... The best methods we have seen."

Carmine Bellino, chief investigator for the McClellan comr ittee, was the last major witness in the Kohler investigation. His testimony covered his examination of the UAW's finances and the personal financial affairs of Walter P. Reuther. What follows is his report as taken from the official record, omitting only the occasional irrelevant exchanges and repetitions. Sen. John L. McClellan opened the questioning.

* * *

Q.—Mr. Bellino, Mr. Reuther has testified that he made available to you all of his personal financial records, and that he also made available to you all of the union's records that you were interested in. Have you made an examination of all these records?

A.—Yes sir.

Q.—Identify the records. What records were turned over to you first? Mr. Reuther's personal records?

A.—Mr. Reuther turned over copies of his income tax returns.

Q.—For how many years?

A.—For the period from 1942 through 1956. Also his bank statements, saving accounts and cancelled checks from 1952 through 1957 and also various details of real estate transactions and war bonds that he owned.

Q.—What did he turn over with respect to the union?

A.—With respect to the union he turned over those records which I requested, particularly relating to the expenditures involving the Kohler strike . . .

The records included the general ledger, the cash disbursements, subsidiary accounts and reports and statements that were put out containing that information, also copies of any audit reports, the manner in which the union operated in connection with their auditing staff. Those generally were the main records.

* * *

(Sen. Karl E. Mundt then asked whether AFL-CIO records were involved. Reuther explained that he did not have custody of such records, but that the UAW books showed all contributions by the UAW to all organizations. Bellino confirmed this. The questioning was then resumed by Robert F. Kennedy, committee counsel.)

Q.—You went through Mr. Reuther's personal records that he turned over to you, is that right?

A.—Yes.

Q.—And made an examination back how far on some of these records, on some of these transactions?

A.—The main was from 1952 through 1957. However, I have the income tax returns from 1942 through 1956 . . .

Q.—What were the sources of income since 1942?

A.—His only, his main source of income was salary from the UAW union, in addition, for a period of time, there were various speeches, articles that he may have written.

Q.—On his salary, what does that range from? What was his salary when the investigation began? The first year?

A.—In 1942 it was $4,900; in 1957 it was $20,900.

Q.—And now, you were talking about the other sources of income. Have there been any other sources of income?

A.—The only other sources of income, chiefly, were speeches, from time to time, and articles that he may have written.

Q.—Now, what would happen to that money?

A.—Generally, initially he retained that money, and turned it over, as I understand, for contributions for charitable purposes. When he found he was paying taxes on those contributions, he set up a Walter Reuther Foundation, and from that time on the money was paid directly by the people who would pay him these fees to the Walter Reuther Foundation, and used for scholarships for the children of members of the union, as well as other charitable purposes.

Q.—So where he made a speech on the outside, or wrote an article for which he got paid, that money would be turned over to this foundation.

A.—That is what goes on at the present time, yes sir.

Q.—And he also owned—has he had any outside ownership of stock?

Q.—He had just — around 1948 he purchased Nash-Kelvinator stock for around $1,000 and that was sold in April 1956 for almost the same price —$1,001.26.

Q.—And it was purchased for how much?

A.—$1,000.

Q.—Ah, now, he has bank accounts?

A.—Yes, he turned over all his bank accounts . . . He follows the practice of depositing all his checks, except sometimes his expense checks he might cash, but all his salary checks are deposited in his savings account, and when he needs money, his checking account is transferred from the savings account.

Q.—So the procedure we have found among some people that appear before the committee of dealing completely in cash, of keeping the money in cash in a little box at home, this procedure was not followed?

A.—In this particular case, with Mr. Reuther and also with his union, the procedure was entirely, vastly different from the other union leaders we've had before us, and which we have investigated.

Q.—What about the expenses, Mr. Bellino? Expenses from the union; what occurs?

A.—Mr. Reuther invariably would submit expense accounts to his union, at the per diem rate, usually $7.50 a day—ranged from $7.50 a day to $12 a day, and I found that in instances when he was travelling or when he was on business for the AFL, during that time if he did accept the check from the AFL, he would not submit a bill to the union. Later on his procedure was to turn in his check from the AFL to the union, and elect to receive the lesser per diem figure from the union. In other words, the union paid him from $7.50 to $12 per diem, the AFL paid him from $40 to $50 per diem, but he would elect to receive the fee from $7.50 to $12 and turn in to the union the $40 or $50 per diem from the AFL.

Q.—Now we've found in some instances before the committee, individuals went to hotels and made charges to their hotel room, personal charges, and then the union paid for those bills. Did you find that?

A.—Yes sir, we found, of course, duplicate expenses in other cases.

Q.—Did you find that as far as Mr. Reuther was concerned?

A.—Oh, no sir, if anything, his hotel bills are audited very carefully. For instance in one bill there

is a valet charge of $1.50 or $1.75 —that was stricken off, it was not paid by the union — it was charged to him personally. They're very careful in the auditing division to charge the member or officer with any personal expenses. The union does not pay for any personal expenses, no matter how small the item may be.

Q.—Now Mr. Chairman, we've also gone into a number of different unions regarding the financial records that are kept by them. We went into the UAW, also, extensively. Mr. Bellino went into the international books, which we had not done as in the Teamsters. We found a different procedure was followed by the UAW than was followed by these other unions that we have examined, and I think that in view of the fact that we have brought out some derogatory information regarding other unions and the procedures they have followed, it might be well if Mr. Bellino would, for just for a minute or two tell us what procedures have been followed by the UAW in dealing with their money.

I'd like to ask you first if there are definite rules to be followed by financial officers of the union?

A.—Yes sir. They put out a booklet which is called "Duties of Local Union Financial. Officers" which explains in detail in simple layman's language with samples of entries, exactly how a union secretary-treasurer should maintain his records, what reports he should submit, how to collect the information. It is very detailed. I might say it definitely it is one of the best methods we have seen in any union. We have not seen anything like this in the Teamsters union. They have a large summary of income and a summary of expenses. We have found it necessary to spend days and days in trying to get information out of the Teamsters union. There was no difficulty whatsoever in connection with the UAW.

They also have an auditing division. The auditing division, I understand, consists of 22 men. I have samples of their reports. They are identical with what certified public accounts put out. They have a regular audit program, and they submit these reports through channels to the local union and insist that the headquarters at Detroit be advised that the report was read at the meeting, and of any comments the members have with respect to the report. I noticed various follow-up letters where they may have been dilatory in notifying Detroit and they got right after them. Their records are audited at least once a year, and the trustees are also required to audit every three months or they may elect to engage a certified public accounting firm. And I noticed their CPA's reports of these examinations.

(At this point the booklet of instructions, samples of UAW financial procedures, etc. collected by Bellino were entered into the record as an exhibit.)

• • •

Q.—Now, Mr. Bellino, in some of the other investigations we've conducted, we have found no check authorization. When there is a check written there is no authorization for it or it has been handled in an improper manner.

A.—Yes sir, we have found just the issuance of a check which would be cashed and no supporting documents whatsoever. In this union (the UAW) they have a regular check authorization and complete detailed supporting documents. Particularly with respect to organizational expenses. I don't recall seeing one check in any of the Teamsters union's locals that we have examined, where a check would be issued for $5,000 or $10,000, where there would be supporting documents whatsoever of any of those items. In this union (the UAW), you have a supporting document, showing exactly what it was spent for.

(McClellan then interposed.)

Q.—Do you find any instance where there was false entries?

A.—No sir.

Q.—It's been my observation in the course of this investigation that frequently the entries made such as—and I think this is a very common one — organizational expenses — where the money was drawn out in cash and spent and there's been no way of tracing it. Do you find anything like that?

A.—No sir. In this case, where there's organizational expenses, it shows the plant where the expenses were incurred, and it gives detailed items of the nature of the expenditures.

Q.—Okay, that's a racket that's going on in some unions as we know and I just wanted to know about this one.

(Kennedy resumed questioning.)

Q.—Also, on the weekly expense form, we have found in other unions that there has been no authorization or documentation on expense accounts. What did you find here?

A.—They have a regular statement of expenses, which is broken down by each day. It covers a period of two weeks and accounts for every expenditure, whether it's car allowance, taxi, limousine, parking, telephone, telegraph, and to whom the telephone call is made. And that would be listed. That's something we have never found in any other union.

Q.—And what about the cash receipts and disbursements? For the month? Did you find that broken down?

A.—The cash receipts have complete detailed information as to the source of the funds. Any item, you could trace it, all you'd need is the time, the information and data is there.

Q.—And you found also a bonding policy?

A.—Yes sir. They have self-bonding. They found their losses in connection with their finances were so low, while the insurance rates were so high, they decided to have a self-bonding policy. And they bond all of their employees by that method. The fund at this time amounts to $139,000, and their own auditors have found approximately four or five instances where there have been defalcations within their union.

In each instance the information was brought out and appropriate criminal action taken, or is presently pending.

Q.—Do you have any summary on it, Mr. Bellino—just generally as to what you have found?

A.—Generally, I believe it is one of the reasons why we have never received any letters in all my experience going back to the House committee on education and labor, that involve any of these UAW-CIO locals, because of the excellent way they keep their records and the auditing which is done in their organization.

Reprinted without comment . . .

"Sweetiepie, Tell Us Little Old Judges in Your Own Words What a Scoundrel That Reuther Is"

The Religion and Labor Foundation

presents its

Social Justice Award

to the

AFL-CIO Ethical Practices Committee

addresses by

Rev. Cameron P. Hall
John C. Corr
Rabbi Eugene J. Lipman
Albert J. Hayes

Sheraton Park Ballroom
Washington, D.C., November 18, 1958

Foreword

The three addresses published here, together with the response of the chairman of the AFL-CIO Ethical Practices Committee, Mr. A. J. Hayes, were given in Washington on the occasion of the Religion and Labor Foundation's 1958 Social Justice Award Dinner. By two clergymen and a layman of the three faiths, together they are an appraisal and appreciation of the contribution to American life made by the AFL-CIO's "social invention," the Ethical Practices Committee.

Besides Mr. Hayes, members of the committee were honored with the presentation of individual plaques: Joseph Curran, David Dubinsky, George M. Harrison, Jacob S. Potofsky, and the committee secretary, Arthur Goldberg.

The Religion and Labor Foundation takes pleasure in publishing these tributes to the work of a group of men acting to improve the moral and ethical leadership of American trade unionism.

CLAIR M. COOK
Executive Director

February, 1959

Ethical Concern and Social Invention

By Cameron P. Hall

That the Ethical Practices Committee of the AFL-CIO is highly significant we are all certain; but where does this significance lie? That this kind of a committee is new, is apparent; but to what trend or development in American life does it point us? These questions are to me most absorbing and, I am convinced, of high importance to all of us. And so I have been concerned with the perspective or approach from which the meaning of the Ethical Practices Committee may best be understood.

My answer is this: the Committee combines two dominant elements in American life, namely, social inventiveness and ethical concern. God can use mightily for his Divine purpose in history these two elements in joint motion. Each of these has been strikingly characteristic of us as a people; and when social inventiveness and ethical concern converge, there is a special promise of abiding strength within us.

Where Do We Get Our Goals?

For just a moment now I want to pose a profound question; but I will be profound for only a moment, since I am capable of only *un*profound answers, no matter what the character of the questions! How, then, do the people of a nation set their nation's objectives and goals? How do they redefine these in the light of changing circumstances and conditions? And, equally important, by what means do these people set about carrying out their common objectives and advancing toward their common goals?

Rev. Cameron P. Hall is executive director of the Department of the Church and Economic Life, National Council of Churches.

Certainly, where there is a dictatorship of whatever label the answer is clear and simple. The ruling group, in control of the government, sets and proclaims the goals, indoctrinates the people accordingly, and puts each individual in the position and posture where he dare not obstruct but has to abet these goals — or else! Subtly or overtly, the government, through its own power structure and compulsions, acts directly upon the people — consistently and effectively. Agreement and daily support by the people of the goals and objectives placed before them are essentially a matter of the government turning on or off its powers, refining and extending its effective sanctions.

But we here are immediately concerned with this issue in a democracy. How do our common purposes and goals become established and clarified and, importantly, carried out in the day-by-day activities of us, the people? The answer is also a simple one, although not as sharply discernible as in a dictatorship. *Our nation's goals emerge out of the people, they are defined by consent of the people, and they are advanced by the essentially free activities of the people, usually working together in many voluntary forms of common endeavor.*

The People and Social Invention

Now what I have been saying so far is, with all this truthfulness, within the rhetoric of traditional American oratory. You may have begun to wonder if I am not trying out on you a talk for next Fourth of July! So I hasten to press now to an analysis of how these preliminary generalizations bear upon tonight's theme: the Ethical Practices Committee.

This role of the people rather than of government in relation to this nation's objectives means that the people themselves assume the largest measure of responsibility for what their goals are and for the ways by which they move toward them. Of course, government is a decidedly important means by which this

responsibility is exercised. But the primary means by which the people express and promote their national purposes is by raising up private agencies and institutions and organizations — all of which we can properly call *"social inventions."*

Among the most important of these are the economic ones — the corporation, the farm cooperative, the labor union, and others. These are all *social* inventions, just as the assembly line and the transistor and the computor are *technological* inventions. The multiple voluntary organizations which we have spawned in our short life as a democracy is a witness to the vitality of our social inventiveness. A peoples' ability and will to engage in social inventiveness is part of the blood stream of a democracy. Voluntary centers of power and of activity of all kinds, shapes, sizes and purposes are indispensable to this and every democracy.

Now there may be some who feel that we may have gone far enough in these social inventions. I know I am talking to men and women who almost daily feel smothered by the committees to which they belong. Perhaps you think that our social inventiveness might now be applied to halting at least the pace of the increase of these social inventions, with their subcommittees, their ad hoc committees, their steering committees and all the other names we have for our heavy involvement in organization. There may be a point here, but it is hard to be optimistic at this point!

The Juncture with Ethical Feeling

The labor unions are an inspiring example of social inventiveness itself. But much more they are an outstanding example of where social inventiveness and deep ethical feeling combine. As the Industrial Revolution developed, the owners held such power that they acted directly — that is unilaterally — upon their employees. The result? Widespread injustice. Not only were the workers exploited as persons, but such exploitation violated and undermined the very fabric of the traditional goals of this nation.

The response of the workers was in large measure the labor union. The labor union is their social invention; it manifests their social inventiveness on behalf of justice and liberty and equality that lie deep within our goals and purposes as a people. Through this kind of a social invention, the workers of this country are now able to participate effectively in both the source and the carrying out of the nation's goals and objectives.

But for some time now it has been an open secret that our economic organized groups, which are all a product of our social inventiveness, have grown and grown in size and strength and influence. And with everything else about us on the up and up, mounting from big to bigger, surely we should be surprised if the corporation did not keep on getting larger — and the labor unions too. The challenge to today's spirit of inventiveness, I am persuaded, lies not in technological but in social inventiveness, related to the threat as well as the promise in the size and complexity and power of these economic combines.

Is There a Corporate Conscience?

The need for social inventiveness to be harnessed to ethical concern in this area of our national life can be put plainly: Does the corporation, for example, have a conscience? Indeed, can it have a conscience? If so, how does it go about getting one and how does it show it has it, when it gets one? Many of us would put this issue in perhaps a different way, but there is no difficulty in agreeing that it is being put and pressed. It has engaged the minds of A. A. Berle, Benjamin Seleckman, Walter Hamilton, John K. Galbraith and others. These write on the need of the corporation for the capacity for ethical self criticism and make suggestions as to how this capacity may be helped to develop. In the series on ethics and economics in society which the Department of the Church and Economic Life of the National Council has been issuing, one

of our authors throws out in this connection a social invention called the "social audit." Just as business opens its books for a financial audit, so, it is proposed, business should open itself to an independent review and evaluation of its social responsibility.

Turn now from the corporation to labor unions. Because of the size of their membership and their influence upon the nation and beyond, this question is pertinent indeed: Has the labor movement today a conscience? Can it be assumed that it can have one? If it has, how should it be expected to assert itself — and when and where?

The Roots Are in the Members' Will

By now you will have already come to see, I am sure, that I view the significance of the Ethical Practices Committee of the AFL-CIO in what it is and in what it portends. *In a truly thrilling and inspiring way it contributes to American life another combination of social inventiveness and deep ethical feeling.* It is an instrument or agency established by and within organized labor itself by which organized labor formally agrees to put itself under the discipline of a considered ethical judgment upon its own practices, and to accept extreme consequences of such judgment, if need be. Because it is an effort to be this and to do this, it deserves not only the award of the Religion and Labor Foundation, but the inspired gratitude of the American people.

What I have said so far would be incomplete, however, without a closing further word. What the AFL-CIO has done in setting up its Ethical Practices Committee is in itself notable; but more reassuring to people like myself is what this reveals about the AFL-CIO itself. The Committee can, to be sure, do much to further ethical practices in the labor world; but its best will not be enough by far, apart from the dedicated quality of the leadership and membership of the unions. Without that, the Committee would never have been born; without it,

the Committee will wither and die.

Ultimately, the Committee is less a source of strength to the AFL-CIO than is the AFL-CIO to the Committee. There is today a Committee with its already fine record because within the AFL-CIO there are leaders like Al Hayes, its chairman, and unions like the International Machinists of which he is President, and union members like those who make that union what it is. And as long as Al Hayes and the Machinists are not isolated but representative examples of the leaders and members of the entire AFL-CIO, the committee will survive and flourish.

For the Public Good

Finally, I have been struck by a fact I observe about those unions which stand far above the need for any concern by this Committee. All generalizations are dangerous, but I believe this one is not without some meaning. With perhaps an exception here and there, the unions that are judged and are *not* found wanting — and these are all but the few — have programs and activities that show vision and concern beyond the narrow and immediate needs of their members solely as employees. The kind of a union I have in mind works at civil rights and civil liberties, it pushes for urban renewal and better housing, it advocates better schools and education for all children, it stoutly believes in a foreign policy that makes for world trade and that reaches into the needs of less developed countries in Africa and Asia and Latin America.

Of course there is no uniformity here, nor need there be; and I mention these issues only at random. But there is evidence both negatively, in terms of *un*-ethical practices, and positively, in terms of ethical practices, that when union leaders and members become fixated on only what is good for themselves, they become blind to what is good for others, and what seems equally true — they lose integrity and fair dealing among themselves.

"Where there is no vision the people perish." Of one thing I am certain: where a deep concern for righteousness and integrity continues to run strong in organized labor, it will rise to the need for the social invention to express that concern, as it has in the case of the Ethical Practices Committee. ▲

The Conscience of Labor

By John C. Cort

The story of the Ethical Practices Committee goes back more than a few years ago, when the committee was set up following the merger of the AFL and CIO in 1955. The story goes back a long way indeed to the efforts of hundreds of little people, and some big people, to rid the labor movement of leaders who would pervert its noble purpose to their own ignoble or subversive ends.

The Story Began Years Ago

That story would have to go back to the struggles of men like David Dubinsky and Sidney Hillman to save their unions in the garment trades from domination by Communist agents; to the year 1941 when my own union, the American Newspaper Guild, became the first international in the CIO to free itself from Communist leadership; to 1947 when Joe Curran led a similar movement in the National Maritime

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John C. Cort is a well-known Catholic layman, social action editor of Commonweal, former director of the New York Association of Catholic Trade Unionists, and present director of the Greater Boston Newspaper Guild.

Union; to 1949, when Phil Murray set in motion the machinery that drove 11 hopelessly dominated internationals into exterior darkness.

It would go back to 1953, when George Meany and the AFL expelled the corrupt Longshoremen's union and served notice that they would no longer permit rapacious and greedy men to hide behind a shield of international autonomy.

It would have to go back further than any of these dates to include the struggles of a host of little men and women who fought against racketeer leadership in their own local unions. It would have to include a truckdriver I knew in New York City, a man in pursuit of honest trade unionism, who told me once what it was like to have a gun shoved in his ribs by one of the goons who controlled a West Side Teamster local. It would have to include several apartment house superintendents whom I also knew in Local 32E in the Bronx (Building Service Employees), who lost not only their jobs but their homes in the fight against racketeer control of that union, and who wandered off to be unemployed for a while, hungry for a while, and then found other jobs, unknown, unsung and almost forgotten. It would have to include others whom I did not know who were murdered in hot and cold blood on the New York docks and in back alleys in Chicago in obscure battles long ago against uneven odds.

The Committee and Its Codes

All these and more are among those whom we honor tonight. But we must also honor those who are still alive and with us — fortunately — the men at the top who took the responsibility and did the job of formulating the conscience of the American labor movement and of directing the clean-out that followed that formulation.

The Ethical Practices Committee was set up by the executive council of the AFL-CIO following the merger convention of 1955. Its chairman was Al

Hayes of the Machinists' union and its other members Joe Curran of the NMU, David Dubinsky of the Ladies Garment Workers, George Harrison of the Railway Clerks, and Jacob Potofsky of the Amalgamated Clothing Workers, with Arthur Goldberg as counsel and secretary. From the start the committee had the vigorous backing of President Meany, who has been a tower of strength in this whole movement.

Eventually, the committee drew up six codes of ethical conduct for affiliated unions of the AFL-CIO. The first, issued in August, 1956, has to do with rules that should govern the granting of local union charters. In January, 1957, three more followed: one prohibits the holding of union office by "crooks, racketeers, Communists and Fascists." The second prohibits union officers from having a personal financial interest in any company with which their union bargains. It also forbids kick-backs, under-the-table payments or personal gifts from employers with whom the union bargains.

Against Corruption, For Democracy

The third sets down rules for the administration of health and welfare funds, rules which would make impossible such an event as the disappearance of $900,000 which was spirited out of the fund of the Laundry Workers Union by a slight-of-hand artist known as Eugene James, then serving in the office of secretary-treasurer.

In May of 1957 the Executive Council approved two more codes recommended by this committee, one on correct financial practices for unions, and the other on basic principles of union democracy. One of these principles which impressed me particularly was this: "Each member of a union should have the right to full and free participation in union self-government. This should include the right (a) to vote periodically for his local and national officers, (b) the right to honest elections, (c) the right to stand for and

hold office, subject only to fair qualifications uniformly imposed, (d) the right to voice his views as to the method in which the union's affairs should be conducted."

This is perhaps the most basic code of all, for if we have any faith at all in the democratic process we must believe that in time, if given a free and fair choice, the rank-and-file will do the ultimate housecleaning themselves, the only housecleaning that gives any promise of permanence.

The Housecleaning Task

To prove that these codes were not merely lip service, the Ethical Practices Committee took action against certain affiliated unions. Using facts brought to light by the McClellan Committee of the Senate, the AFL-CIO brought its own charges, held its own hearings and delivered its own recommendations to the executive council and to the 1957 convention of the AFL-CIO.

As a result three unions were expelled: the giant Teamsters, the Bakery and Confectionery Workers, and the Laundry Workers. Two others, the United Textile Workers (not to be confused with the Textile Workers Union) and the Distillery Workers were given temporary reprieves and placed under supervision following promises to straighten up and fly right.

More recently the committee has been responsible for clean-up actions or investigations affecting the Jewelry Workers, Operating Engineers, Hotel and Restaurant Workers, Meat Cutters, and Carpenters. Much of this is unfinished business, but taken all in all it is a sizeable piece of housecleaning.

There have been many critics of the Ethical Practices Committees, some of them from labor's own ranks, some of them from the ranks of unions that are not even under investigation. Others have not criticized; they have gone along, but they have felt uneasy at heart. They might not go as far as old John English when he told the AFL-CIO '57 convention, "Deep down in your

hearts you know that there is not a union connected here that is better than the Teamsters Union."

God's Is the Ultimate Judgment

The people I speak of would not say that, or believe it. They would say something like this: "Sure, Jimmy Hoffa isn't everything he ought to be, but who is? And anyway, he's a helluva labor leader. He gets results and the rank-and-file swear by him. And besides, there's a little bit of larceny in all of us. Doesn't the Good Book say, 'Let him who is without sin among you cast the first stone?' And 'Judge not that you be not judged'? What labor leader hasn't padded an expense account somewhere along the line? So why should we all of a sudden get self-righteous about the Teamsters Union?"

This is a persuasive line in some ways. There is some truth to it, enough to be dangerous, not enough to be right. For after all, it isn't necessary or desirable that we should judge Jimmy Hoffa or Dave Beck or Eugene James or James Cross in the sense that Christ deplored. It isn't necessary for us to say how much guilt lies on their souls, or whether we are better than they are in the eyes of God. Maybe we would have been worse if we had been brought up as they were, or owned the same set of genes. Maybe they were dropped on their heads when they were kids. Maybe they are not responsible at all in the eyes of God.

All we know is that they are responsible in the eyes of men. All we know is that some men must be given authority to judge actions and to draw lines, saying, "Thus far and no farther. We may be no better than you are in our hearts, but if we are going to sit back and let you get away with that, then we might as well give the country back to the savages."

Our Cross and Our Strength

These men whom we honor tonight have been given authority by the House of Labor to judge their fellows. As far as we can see, they have used that

authority with fairness and restraint, but they have used it. And the House of Labor is better for it — *smaller,* but better — a house now that any decent man can be proud to call home.

It is important that we keep this house clean, that we keep it swept and garnished. For let's face it — the American press and the American public do not apply the same standards to the misconduct of labor leaders as they do to the misconduct of businessmen.

It is expected in this country that a businessman should go out and connive, that he should kick and gouge and cut corners in order to make a fast buck, in order to make a lot of fast bucks. But labor leaders are supposed to be idealists. They are supposed to be self-sacrificing, unselfish servants of the laboring masses — champions of the poor and defenseless workers.

This is our cross, but it is also our strength. For it is precisely because the labor movement has been a movement that was built upon the love and hunger for justice that it has become a great movement. And it will be precisely when it loses that love and hunger for justice, when it loses that sense of idealism and dedication that it will cease to be a great movement and become just another business — which God forbid.

Great movements, like great nations, usually start dying from within before they are destroyed from without. To those men who have been entrusted with the internal health of a great movement, the American labor movement, must go out our thanks and our prayers. May the good Lord guide them and strengthen their hands, for the odds are that they hold in those hands far more than just the health of the American labor movement. ▲

Three Religious Ethical Principles

By Eugene J. Lipman

There is a statement in the Talmud: He who presents an idea in the name of its original author, it is as if he had brought redemption to the entire world.

Since in my view, the world stands in the need of a bit of redemption, I am delighted on this occasion to present the ideas of my favorite Rabbi, Morris Adler. I feel a pleasant kind of irresponsibility at this moment. After all, if the speech is bad, it's Adler's fault! Actually, if these remarks are of any value, it's because the ideas are Rabbi Adler's. If they are not, the fault will be my inadequate words of expression.

Religious Ethics Govern All

Three religious ethical principles should be applied to the purpose of this dinner and to the ethical future of the American labor movement. First, no activity of men or the institutions of men is free from God's ethical commands. Nor may any individual or institution create a private or special set of ethical laws to govern its public conduct. Religious ethics, divinely ordained, are

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Rabbi Eugene J. Lipman, Social Action Director for Reform Judaism, spoke on behalf of Rabbi Morris Adler of Detroit, who was unable to attend as the originally scheduled speaker.

universally applicable.

Unions and organized labor come under this principle. The ethical purposes of union organization and activity cannot be limited to economic, social, or political benefits for union members. These very valid purposes of organized labor must be carried out for the benefit of society as a whole and with society consciously in mind — or the purposes and the principles behind them will have been warped and distorted. "What's good for our members is good for all of society" is as questionable an ethical proposition as "What's good for . . . my corporation is good for the country."

When we view this evening's proceedings in the light of this principle, the Ethical Practices Committee of the AFL-CIO has richly earned the thanks of religionists and of American society as a whole. Labor's codes of ethics transcend cleanly the parochial interests of the labor movement. They are written with the democratic process and our democratic society clearly in view. We of the RLF honor ourselves in hailing both the documents and their architects.

No Immunity from Law

A second ethical principle: no person or human institution is immune from society's scrutiny under law where public conduct is concerned. Organized society has the right to legislate regulatory measures for all institutions. Organized labor is no exception. If laws can be rightly passed to prohibit the practice of polygamy by the Church of Latter Day Saints — whose religious tenets permit and encourage that courageous, and to me incredible practice! — then certainly the public through its government can regulate the relationship between a union's desires and the general public welfare. If laws can properly regulate how much of my salary belongs to society for its general needs, then certainly government can have something to say about the fiscal structure of trade unions. So long as unions are led by and made up of human beings with human limitations, laws can and should

be applied to them for the benefit of society as a whole.

The Positive Purpose of Law

The third ethical principle: The purpose of law is not to punish or coerce alone, but it is much more positive. Permit me to suggest that Judaism has always known this and has symbolized it in the very word we use, loosely translated as "law." A *mitzvah* is a Divine commandment, and *mitzvot* come in two varieties: positive ones to be fulfilled, negative ones to be avoided. In this context, the purpose of human laws as well is two-fold: to cure such sickness as may develop among individuals and institutions in the society; and second, to permit healthy organisms to function and grow with a maximum of freedom. To ignore this second or to relegate it to a minor position is to invite catastrophe in a free society.

The labor movement is generally a healthy movement. Rabbi Adler reports that he has been overwhelmed in his work on the United Auto Workers Public Review Board by the integrity and decency of almost all unionists. Even the cases which come before this great board are indicative of good health. Rabbi Adler says: "No case has come up which could not occur in a church or synagogue." To preserve this good health, to expand it, to permit it to operate in our economy and in our society — this is a responsibility of government as the organized public. If legislation is needed to this end — then regulatory legislation is a good thing.

Let me summarize: The ethical laws of God are universal. Human laws consistent with and consequent to such ethical principles must be validly applied to every segment of society. The purpose of laws is not only to cure and to prevent illness, but also to protect healthy organisms and to permit them maximal expression and freedom. Such an organism is American Labor. It will undoubtedly grow ever more healthy and mature, thanks to the men we honor this evening. ▲

Mr. Hayes (right) receiving one of the individual plaques presented to Committee members by Dr. Clair M. Cook, RLF Executive Director (left).

Citation

For nearly three years The Ethical Practices Committee of The American Federation of Labor and Congress of Industrial Organizations has maintained faithfully its charge of assisting, in the language of the AFL-CIO Constitution, "to keep the Federation free from any taint of corruption or communism." Its democratic purpose and high sense of moral responsibility have brought forth six codes of ethical practices, unique in the history of private organizations, which have set the norm for a high level of conduct by the whole of responsible American trade unionism.

Vested with authority to conduct investigations and hearings and to make recommendations, the Committee has moved with rare wisdom and utmost courage. Upheld by the Executive Council and the AFL-CIO delegates in convention, it has shown in remarkable degree unique leadership and initiative in a difficult and disagreeable task, one which could be accomplished only by devotion to integrity without regard to compromising expediency.

Therefore, in public recognition of the contribution it has made to raising the level of moral integrity in the labor movement, thereby affecting for the better the whole of American life, The Ethical Practices Committee of the AFL-CIO has been granted the 1958 Social Justice Award of The Religion and Labor Foundation, which has caused to be cast in bronze its name as a permanent mark of these achievements.

On Accepting The Award

By Albert J. Hayes

Thank you, in behalf of the members and staff of the Ethical Practices Committee. I accept this award — and the honor it confers — in their name.

The task for which you honor us is not a pleasant one. Indeed, it is the most unpleasant assignment I have been given in my forty-one years in the labor movement. And I am sure that my feelings in the matter are shared by every member of the Committee. But the task is an essential one, and we in the labor movement know we must accept unpleasant assignments as well as those which lead to popularity and prestige.

The process of justice in our free society is ordinarily — and rightly — an impersonal process.

The Challenge to Be Objective

In some respects, however, the task of

A. J. Hayes, chairman of the AFL-CIO Ethical Practices Committee, made the accompanying address in receiving the Social Justice Award on the Committee's behalf. Mr. Hayes is president of the International Association of Machinists.

the labor movement in meting out justice on an impersonal basis is much more difficult than it is in agencies established by government for that purpose. It is a general practice in our courts for a judge who may be prejudiced by interest in, or friendship with, an accused to disqualify himself or to grant the accused a change of venue, in order to assure impersonal and objective justice.

However, this is not possible in the labor movement, since we believe sincerely that the first responsibility for eliminating corruption and any other activities adverse to the membership of labor unions is ours. Because of this conviction, we cannot disqualify ourselves or seek any change of venue. We have no alternative to investigating and judging persons who, in some cases, we have known closely for many years and, in other cases, with whom we have been associated for many years.

In the light of this fact, our great challenge has been to be objective in an atmosphere which does not always lend to objectivity. And, while we are not the best judges of our own fairness and objectivity under such difficult and trying circumstances, I can assure you that each one of us has made a special effort to put aside both friendship and prejudice in carrying out our unpleasant, but essential, assignment.

The Burden of Discipline

Our task is further complicated by the knowledge that in making our judgments we must, by the very nature of the Federation, recommend discipline — where discipline is necessary — which may adversely affect thousands and perhaps hundreds of thousands of members who are not guilty of any wrongdoing. And we must do this in *full awareness* of the fact that the overwhelming majority of those members are honest and sincere union men and women who are neither directly nor indirectly responsible for the guilt of their chosen representatives.

It is our earnest hope that the standards of conduct embodied in the Ethical

Practices Codes, and the actions taken against those few organizations which have refused to abide by those standards, will produce a group of labor officials who are constantly conscious of the high standards required, and a membership which insists upon compliance with them.

It is not an easy task to insist upon high standards of ethics and morality in a single segment of society, when society at large does not always recognize such standards fully. On the other hand, the Federation cannot justly refuse or delay corrective action because other institutions or groups in our society refuse or fail to recognize their responsibilities regarding the corruption and wrongdoing that exists within their ranks.

The Desire Comes from the Members

We value this award, but we are not sure that we are really deserving of it. After all, we are merely fulfilling our duty as trade union officials in carrying out an assignment. In a way it is a strange commentary on modern society that men should be honored for doing what is right and necessary.

To the extent that we may deserve your honor, however, we must share it. We must share it with our fellow members of the Federation's Executive Council. It is they who translate our recommendations into effective action. And beyond them, we must share it with the rank and file of American labor. In the final analysis it was their insistence that wrote the high standards into the Federation's constitution; it is their determination which makes our work and the Council's actions possible; and it is they who will finally eliminate all traces of corruption and communism from the labor movement.

Thank you again. I must admit that it is pleasant to be honored by such a distinguished group for a task which very often brings criticism from colleagues and brickbats from adversaries. This evening has made our assignment a little less unpleasant. ▲

THE SOCIAL JUSTICE AWARD of the Religion and Labor Foundation is a four-sided bronze sculpture about two feet high, depicting workers in four major areas of work life — fuel, food, clothing and transportation. A miner with his cap lamp and pick; mine cars in the background; a farmer with hoe in a corn field; a woman at a loom; a dock worker beneath the prow of an ocean vessel — these form the four sides (below and first page). The open book, symbolic of the Bible, bears the names of recipients.

First presented on October 6, 1948 to Fiorello H. LaGuardia, other recipients have included Senator Robert F. Wagner; Mrs. Eleanor Roosevelt; Lucy Randolph Mason; William Green and Philip Murray; Rabbi Stephen S. Wise, Bishop Francis J. McConnell and Most Rev. Francis J. Haas; Thurgood Marshall; George Meany and Walter Reuther; Senator Herbert V. Lehman, Rev. John LaFarge, S. J., and Dr. Martin Luther King; and the AFL-CIO Ethical Practices Committee.

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$17 per hundred, $150 per thousand.

From File – "Michigan State"

1958-59

Reprint Series

LABOR AND INDUSTRIAL RELATIONS CENTER

Michigan State University Publication

The Crisis in American Unionism

By Edwin E. Witte

LABOR AND INDUSTRIAL RELATIONS CENTER

Michigan State University
East Lansing, Michigan

Charles C. Killingsworth
Director

MICHIGAN STATE UNIVERSITY PUBLICATION, VOLUME 53, NUMBER 6, October, 1958. Published monthly in July, October, November, December, January, February, March, April, and June, and bimonthly in August, September, and May, by Michigan State University, B Wells Hall. Second Class mail privileges authorized at East Lansing, Michigan.

Chapter VII

THE CRISIS IN AMERICAN UNIONISM *

EDWIN E. WITTE **

That there is developing a crisis in labor unionism in this country is known to everyone. All that I shall attempt to do is to call attention to some aspects of this crisis and to do some speculating as to what may be ahead. I am not a prophet or the son of a prophet and make no claim to being an expert on the subject. I recognize that all of you know much more about it than I do. But I shall go ahead with my talk in the hope that something I say will induce some of you to correct me, if I am wrong, or to supplement what I present.

Some Manifestations of the Crisis in American Unionism

With this brief statement acknowledging my inadequacies, I shall proceed at once with my subject; and, first, let me direct your attention to some manifestations that all is not well in the house of labor.

This month the AFL-CIO—the national federation—has announced the layoff of 100 organizers, a reduction of more than one-third in its staff of organizers. This has been ascribed, and is no doubt in part due, to the decline in the Federation's revenues as a result of the expulsion of the Teamsters, the Bakers, and the Laundry Workers—unions which comprised about one-eighth of its total membership. Beyond that it seems to reflect a belief or fear that the present is not a propitious time for major organizing drives.

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* Dinner Address.

** Edwin E. Witte has retired as chairman of the Department of Economics at the University of Wisconsin. He is currently a distinguished visiting professor at Michigan State University. He served as a public member of the National War Labor Board, 1944-45, and was a member of the Wisconsin Labor Relations Board, 1937-39.

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The high hopes for gains in union membership that were entertained when the merger of the federations was effected have vanished. One—if not the major—expressed purpose of the merger was an intensification of union organizing. Plans were announced to organize still unorganized manufacturing industries, particularly the chemical industry. There was also talk of organizing the white collar and technical workers and of reinvigorating the stalled drive of the forties to organize the South.

Figures of the U. S. Bureau of Labor Statistics suggest that some gains in total union membership have occurred since the merger. In these two years the total membership of American unions is reported to have increased by approximately 500,000. Interestingly, among the unions that have made the largest gains has been the Teamsters. The next largest international, the United Automobile Workers, sustained a slight loss in total membership; while the third, the Steelworkers, had only a small growth. Until the great increase in layoffs that began in October or November, 1957, organized labor, as a whole, did make modest gains—about 3 percent—in a two-year period. But these gains were far smaller than labor hoped for and many prophets forecast.

The recession has lessened the prospects for union growth. The upswing in union membership early in the Roosevelt Administration began when the American labor movement was at its lowest point in more than 15 years. But this occurred after three years of the worst depression of all time. In all other depressions since American labor first began to organize in the early nineteenth century, union membership has declined—often drastically. There are no statistics as to what has happened to union membership in these last months, but there is every reason to believe that, with declining employment, union membership has also decreased.

Factors Hindering Union Growth

There are many economic and social factors that adversely affect the prospects for union growth in the near future. Perhaps the most basic among these are the changes which have been occurring in the American labor force.

Among these is the remarkable growth in the number of women workers. At the turn of the century, about one-sixth of the labor force of the United States consisted of women, most of them in domestic service, agriculture, teaching and a limited number of manufacturing industries, such as clothing manufacture and textiles. Today the percentage of the women workers in our labor force is approaching two-fifths. Most of the earlier fields in which women found employment have declined, but there has occurred a phenomenal growth of women employees in clerical and sales positions plus sizable increases among the production workers in many lines of manufacture and most other industries. There has also occurred a pronounced change in the characteristics of women who are in industry. When I was a boy the women in industry were principally young girls, employed prior to marriage, and older immigrant or Negro women. Today as Dr. Henry David, Executive Director of the National Manpower Council of Columbia University, has put it: "It is no longer the young woman chiefly of immigrant origin or extraction, or the Negro woman, who is the characteristic woman wage earner. Nor is it the woman who has to work out of sheer economic necessity." [1] Sixty percent of present-day women workers are married and nearly half of all of them are over 40 years of age.

The remarkable increase in the number of women workers and the change in the characteristics of the typical women workers have confronted labor unions with a new problem which they have met only imperfectly. This is clearly indicated by the fact that, while women constitute above one-third of the labor force, only one-fifth of the organized workers are women. The outlook of many women workers continues to be that of short-time employees who see little need for organization. Women, moreover, are predominantly intermittent workers, only one-third of them working full time in industry throughout the year, another one-third full time for part of the year, the remaining third part time throughout the year. Even when in the labor market, their main interest is in the home. Work by married women normally means at least

[1] Address published in *Labor Laws and Their Administration, 1956* (Bulletin, *Bureau of Labor Standards,* No. 191), pp. 53-54.

two wage earners in the home and a family income which is more adequate than the husband's income alone. The "little lady" can be pretty stubborn when she makes up her mind; many women workers become very determined unionists. But most unions continue to be run by men and not along lines that appeal to the women. Women workers are not unorganizable, but labor has not solved the problems which confront it by reason of the increase in womanpower in industry and the changing character of the women workers.

Also a still largely unsolved problem has been the great growth in the white-collar, production and technical workers. Our unions have been predominantly organizations of the manual workers. The production workers in industry are not increasing, while the white-collar workers are growing phenomenally in numbers. As automation progresses further, this trend can be expected to continue. Unions have not been completely unaware of the problems confronting them in this respect. They have made attempts to organize the engineers and a few other professional or semi-professional employees. They have sought to convince the office workers that their interests lie with the production workers. Alternately, they have permitted the office workers to have their own internationals. But these remain only small organizations and the total percentage of white collar workers who have been "corralled" by the unions is disappointingly small, to the labor people. The trend toward more professional, technical, clerical and other white collar workers is one the unions are up against today and which may call for quite fundamental changes in the labor movement for its solution.

The only slightly less strong trend toward more skilled workers in industry has disturbed labor somewhat less, but also is a factor affecting its growth and development. Our unions formerly were basically organizations of skilled workers. Most skilled workers are members of unions today. Not so long ago, the skilled workers had their own unions. Today they are, mainly, in the same international unions and, often, in the same locals. There are few craft unions which do not admit semi-skilled and unskilled workers. Industrial unions, in theory at least, ignore craft lines. Many unions are historical products,

being industrial unions in part of their jurisdiction and craft organizations in other fields. Craft and industrial unions are now in the same tent but not too happy with each other's company. Very troublesome jurisdictional disputes have developed between building trades unions and some of the industrial unions in the mass production industries; also, disputes over representation involving attempts to carve separate bargaining units out of industrial unions. The problem of the conflict between skilled and semi-skilled and unskilled workers still troubles organized labor, although in new forms. Although not the problem that most hinders the growth of union organization, the industrial versus craft union issue nevertheless remains a perplexing one.

Also a problem faced by organized labor today is the increasing mobility of the American workers and of our entire society. This is not merely a matter of more Americans leaving their states of origin during their lifetime than earlier in our history, but of the dispersion of the plant workers through the automobile over a vast region extending many miles in every direction. This operates to make organizing other than on the premises extremely difficult and interferes greatly with union meetings and good attendance at such meetings. A problem for the unions also has developed from the dispersion of upper and middle income people from the central region of our cities to the suburbs. This movement has been shared by our better-paid workers. Today most workers can buy homes in the suburbs or the country, if they so desire. Once a worker moves to the suburbs he tends to take on something of the complexion and mental attitude of the suburbanites—perhaps the most anti-union group of any large distinguishable element in our population.

Something of the same situation has been created by the rise in workers' incomes. Not all wants of American workers are being satisfied and there remains a good deal of discontent among them; but appeals addressed to the starving and oppressed are not very effective when the workers are not starving and do not feel oppressed. Prolonged, widespread unemployment also does not promote union membership, and busi-

ness recession, such as we are now experiencing, has the same effect.

The Congressional Investigations

Besides the problems posed by the sharp business decline, organized labor at this time is up against disfavor or at least low repute with the public. Organized labor is a minority group in our society and but seldom has been approved unqualifiedly by the general public. In much of American thinking, organized labor is still associated with the people who were born on the wrong side of the tracks and with the more recent immigrants and their descendants. This is less true than at an earlier date, but remains the picture many Americans have of the labor movement. To this has been added the impression of a labor leader who is a roughneck and often a crook. Many Americans have long believed that the typical labor leader is a racketeer and not infrequently a goon. To them, labor leaders and union officers seem to be men who are interested only in the dues they can collect from members and the boodle they can exact from employers.

This impression of the labor leader held by many Americans has been confirmed and strengthened by the labor scandals that have had such large space in the daily press. There have been investigations after investigations, with several, at times, going on simultaneously. Dealing only with the investigations since World War II, I mention first the investigation of Un-American Activities by the Senate Committee on Expenditures in Executive Departments, popularly known as the McCarthy Investigation. This committee is still in existence, headed by Senator Eastland, and has held a few hearings within the last year. There was for a time a parallel committee in the House of Representatives, which gave the present Vice President his start to fame. The McCarthy Committee devoted some attention to communism in the ranks of labor and its proceedings made headline publicity for years. I think it is a fair statement that it discovered no Communists in labor ranks who had not previously been known to be Communists. But it gave additional publicity to the fact that Communists at one time controlled quite a few unions affiliated with the Congress of

Industrial Organizations. In 1949, well before the McCarthy Committee came into existence and before the Vice President was more than an obscure Congressman from Southern California, the CIO expelled these Communist-dominated unions. Since then, on a few occasions obscure local union officials or representatives have "pleaded the Fifth Amendment" when questioned about their Communist connections. Labor, much more than the Congressional investigators, has gotten rid of Communists in positions of power in its ranks. Unfortunately, many Americans still believe the unions or many of them to be Moscow directed.

Then followed the investigations by a subcommittee of the Senate Committee on Labor and Public Welfare of the management or mismanagement of union health, welfare, and pension funds. This subcommittee was headed in the 83rd Congress by Senator Ives; in the 84th Congress by Senator Douglas; and in the present, 85th Congress, by Senator Kennedy. A parallel investigation was conducted by the House Committee on Education and Labor. The Senate Committee soon struck pay dirt and until this year has brought up a large quantity of muck. The disclosures have concerned such matters as excessive salaries paid to union officials running health and welfare funds, the splitting of commissions by insurance agents with the union trustees of such funds, the organization of brokerage businesses by trustees to increase their take, some direct stealing of trust monies, and the connection of notorious criminals with a few of the funds. Relative to the total number of union-managed health, welfare, and pension funds, proof of gross mismanagement has been presented only as to a small percentage of all such funds. No similar investigations or disclosures have been made of company-managed or jointly-managed health, welfare, and pension funds. The investigations in their entirety have confirmed the earlier impressions of many people that labor leaders are often crooks and thieves, stealing from their members and growing rich on the boodle. No legislation by Congress has resulted from the disclosures, but six states have provided for public disclosure of the financial operations of union health, welfare, and pension funds.

Most unfavorable has been the publicity organized labor has received from the investigations during the past year by the select committee of the Senate generally referred to as the "McClellan Committee," technically the "Select Committee on Improper Activities in the Labor or Management Field." This committee consists of four Democratic and four Republican Senators, with Senator McClellan of Arkansas as Chairman. Three of the Republican members (Goldwater, Mundt, and Curtis) have anti-labor records and Chairman McClellan also was opposed by organized labor when he was last elected. One member (McNamara) is a union member; and the other three have acceptable labor records. The chief counsel, head of the Committee's staff, is Robert Kennedy, a younger brother of Senator Kennedy; but the Republican members have had their own staff, headed by John McGovern, who has been sharply criticized by Senator McNamara for statements indicating, as alleged by the Senator, anti-labor bias. The committee has conducted public hearings, intermittently, for more than a year and the Chairman has stated that they may go on for five more years.

The most extensive hearings to date have concerned the Teamsters union; others, the Bakers, the Laundry Workers, the Distillery Workers, and the Operating Engineers. There has also been one series of hearings concerning the operations of a management consultant, Nathan Shefferman, of Chicago, doing business as the Labor Relations Associates. The Committee's staff, particularly the minority staff, has also investigated the United Automobile Workers and hearings relating to the Kohler strike, encouragement of violence, and the political activities of this union have been forecast. The great majority of unions have neither been subpoenaed to appear nor have they been in any way implicated in testimony before the Committee. Other than Shefferman and the management of the Sears, Roebuck store in Boston and a few smaller clients of Labor Relations Associates, management has not, to date, been brought before the Committee, in spite of the fact that Shefferman testified to having served several of the largest of retailing companies and some sizable manufacturers. Until recently, organized labor indicated its support of the Commit-

tee's investigations, but within this month it has charged that at least some members are out to get Labor. No recommendations for legislation have come from the McClellan Committee, and none is expected in the present session.

The testimony given before the McClellan Committee has often made the headlines. Most sensational was that concerning Dave Beck, retiring President, and Jimmy Hoffa, the new President, of the International Brotherhood of Teamsters. The charges against them included diversion of large amounts of union funds for personal use, autocratic control of the union, and, in the case of Hoffa, consort with notorious criminals. Both Beck and Hoffa have been tried for violation of criminal statutes, and Beck has been convicted. The charges against James Cross, President of the Bakers' Union—a socialist—are quite similar. There has also been testimony of resort to violence by the Teamsters and some of the lesser unions investigated. Little has been added to previously disclosed facts about the mismanagement of union health, welfare, and pension funds. Surprisingly, there has been little testimony of the attempted exaction of money from employers by union officers for any purpose whatsoever. Very little, also, has been disclosed as to the rigging of union elections or the lack of democracy in unions. Less than ten of the several hundred international unions have been disclosed to be, in any sense, corrupt or as having corrupt officers. Aside from the men mentioned and, recently, President Maloney of the Operating Engineers, no top-name union officials have been implicated. The operations of Nathan Shefferman have been revealed as being essenitally those of union busting by methods of corruption, and his list of clients represents a pretty good start toward a bluebook of American merchandising. But there has been no testimony as to the extent of similar practices in manufacturing or even a mention of the very largest corporations.

Labor's Reaction to the Investigations

Labor's reactions to the disclosures of corruption and other festering evils in union ranks have, to my way of thinking, been wholesome. More than a year before the McClellan Com-

mittee was organized, the AFL-CIO in its first constitution set forth as one of its principal objectives:

> "To protect the labor movement from any and all corrupt influences and from the undermining efforts of communist agencies and all others who are opposed to the basic principles of our democracy and free and democratic unionism" (Article II, Section 10).

In this same first convention (November 1955) the AFL-CIO provided for an Ethical Practices Committee, headed by Al Hayes of the Machinists' Union, to implement this constitutional provision, through investigations on complaint or on its own initiative of all suspected corruption or communism. It set forth a procedure for the suspension until the next convention of unions found, upon investigation, to be under corrupt domination, with the further power of making recommendations for the correction of the evil conditions. It also set forth that the convention, after hearing both the accuser and the accused, was to determine whether the accused union should be expelled from the federation or allowed to resume its membership, and, if so, under what conditions.

When the investigations of the subcommittee on union health, welfare, and pension funds of the Senate Committee on Labor and Public Welfare disclosed corruption in the handling of trust funds by the Allied Industrial Workers, the Distillery Workers, the United Textile Workers, and the Laundry Workers, and by scattered local unions, the Ethical Practices Committee promptly investigated and recommended suspension of these unions, setting forth the conditions which would have to be met for reinstatement. The Executive Committee, by a well-nigh unanimous vote, sustained the recommendations and the suspensions remained in effect until the recent second AFL-CIO convention. By that time the Allied Industrial Workers had gotten rid of its officers accused of corruption and the United Textile Workers had agreed to hold a special convention supervised by a monitor and to declare its two former top officers ineligible for election. Both these unions were consequently reinstated to full membership. The suspension of the Distillery Workers was continued under a monitor, with a statement of the conditions which must be

met for full reinstatement. The other unions were expelled and are today outside the Federation. The two international unions not previously so labelled which were revealed through the investigations of the McClellan Committee to have corrupt officers, the Teamsters and the Bakers, were proceeded against similarly. The Ethical Practices Committee recommended their suspension to the Executive Council; the Executive Council sustained this recommendation; and the Convention (by a five to one vote in the case of the Teamsters) changed this into expulsion from the Federation. A new Bakers' Union has been chartered, which is reported to have gained the adherence of one-third of the locals of the old union. No new Teamsters' International has been organized but city centrals and state federations have been directed to expel Teamsters' locals. This is a record which seems to me to show labor's good faith in its oft-repeated expression of desire to clean its own house. On this point, note must also be taken of the creation by two international unions, the Upholsterers and the United Automobile Workers, of appeal boards composed of prominent people not connected with these unions, with authority to review and correct undemocratic actions against union members. But it remains doubtful how much the public has been impressed. Beyond question, the labor scandals have hurt the standing of organized labor in public opinion.

Prospects for the Future

What will be the final outcome is in the realm of speculation. Many see the most likely result to be legislation hostile to labor in the Congress and the state legislatures. Quite a few bills, which labor views with alarm, are pending in the Congress. These range from requirements for the registration of health, welfare, and pension funds, to vague proposals to make the unions subject to the anti-trust laws and a more definite measure for a national right-to-work law, making it unlawful for employers and unions to contract for any form of union security. In between are the recommendations which President Eisenhower transmitted to the Congress a week ago. Many of the proposals, including some of those of the President, go beyond the correction of the evils publicized through the Con-

gressional investigations and have already drawn fire from organized labor and its supporters. What will become of them, in an election year, is pretty much anybody's guess. What seems certain is that labor this year will get nowhere in its long campaign to lighten the restrictions imposed upon it by the Taft-Hartley Act, and particularly has little chance of getting its bill enacted that would prohibit states from imposing more drastic limitations on union security agreements than those included in the national law. Further legislation placing additional restrictions upon the activities of organized labor in contests with management is more than a possibility; but I doubt whether 1958 will prove another 1947.

There is also a possibility that the labor scandals will have adverse repercussions upon labor in its contests this year over new contract provisions in many major agreements. The business recession makes 1958 a bad one for wage increases and other labor gains. The public is more than half convinced that the major cause of rising prices is the increase in wages and is in a mood to support management in resisting further increases in rates of pay or fringe benefits. There are also numerous indications that many managements this time have their backs up and seem disposed not to yield an inch. More than ever the battle is being waged in the forum of public opinion. The labor scandals have further weakened labor in this forum. At present the prospects seem to be for more and greater strikes than we have had for years, with labor in a position in which the majority of the public will regard it as a sort of "Peck's Bad Boy" or worse, a goon responsible for just about everything that is wrong. Public opinion is not always, perhaps but seldom, decisive in labor disputes, but it does count. At this time, so it seems to me, it is likely to support management in stubbornly resisting union demands. This is not predicting that labor will get nothing this year; and, of course, it will not get all that it seeks in its first demands. Only a prophet can forecast the final outcome of the 1958 contract negotiations and the strikes in which they may culminate.

On the broader question of what will be the total effects of the present crisis in labor unionism. I have little to offer that is more definite. But I call attention to the fact that this is

not the first time organized labor has faced a critical situation. We now have had labor unions for more than one hundred years, in all sorts of climates of public opinion and during one crisis after the other. Many of the factors in the present situation may call for changes in union tactics and may precede such changes. What is clear is that unions do not dominate our society, but they have been and are now a part of the American way of life, although theirs is a minority role. I expect them to continue as a part of the American way of life, regardless of present difficulties.

A Conditional Forecast

What I shall say from this point on is a conditional forecast, which I believe to be warranted on the basis of experience in this and other countries. It is my expectation that the major repercussions of the labor scandals may well be in the political field. Even more do I expect such a result if Congress should enact legislation which labor interprets as an attack upon its existence or effectiveness. This may also be the result of a stinging defeat, should it occur, of labor in the contract negotiations and ensuing strikes in the spring and summer. Holding the line against wage increases, particularly if unemployment continues to mount and farm prices do not improve, may well give us the most radical Congress we have had in two decades.

Interviewed, along with other public members of the former National War Labor Board after the passage of the Taft-Hartley Act, I ventured the prediction that the principal effect of this legislation, crammed down labor's throat by the Eightieth Congress, was likely to be increased political activity on the part of organized labor, rather than any pronounced change in the economic strength of the parties. As I look back upon that forecast, it seems to me that I was a very lucky prophet. The Taft-Hartley Act hurt labor less than it had feared and also benefited anti-union employers less than they had hoped. But the passage of the Taft-Hartley Act put labor into politics to an extent not known for many years preceding. The surprising reelection of President Truman in 1948 was ascribed by political commentators principally to a sizable

switch in the farm vote, but the defeat of nearly a third of the members of the 80th Congress who had voted for the Taft-Hartley Act occurred almost entirely in industrial districts.

Organized labor has always been interested in what government is doing and to some extent has engaged in political activities. But it is most active politically when it believes that its operations in the economic sphere are being hampered or likely to be hampered. Dyed-in-the-wool unionists follow the advice of their leaders in politics when they believe their unions to be in danger. Workingmen generally react most violently politically when they have sustained personal loss or fear such a loss. Among situations producing such a result are unemployment, wage cuts, and defeats in strikes. It seems to me to be probable that the more the factors enumerated coincide, the more certain and the greater will be the political reaction.

There is considerable likelihood that quite a number of these factors will coincide by the elections of 1958. A heretofore little remarked concomitant of the labor scandals has been a growing belief among ardent unionists that the investigations and exposures of the McClellan Committee have gone far enough and are motivated by a desire to weaken organized labor. A majority of the Teamsters seem to be sticking with Jimmy Hoffa. As has been noted, top AFL-CIO leaders recently met with Senator McClellan and others from his Committee to warn them not to play the game of Walter Reuther's opponents. There is a distinct possibility that as the contract negotiations draw closer, investigations of the unions involved will strengthen this feeling among ardent unionists; and, if the negotiations prove disappointing, politicians will be blamed. Prolonged strikes resulting in defeats for labor would increase the political repercussions. These will be particularly strong should Congress enact legislation which labor deems to be designed to weaken its economic position. Every informed person also knows that a continued high level of unemployment and, still more, increased unemployment, will be hard on the "ins" in politics. It is my expectation, also, that the political reaction will not stop with party labels. It may well come to pass that the long conservative swing in American politics, manifest now for twenty years, may be reversed.

All this is in the realm of speculation, with many "ifs" about which no one can be certain. What seems clear is that the AFL-CIO merger, the jurisdictional disputes agreement, and the ethical practices codes have not solved all problems of the American unions or, more accurately, any of them. Organized labor is in a difficult situation today. Many of the factors in this difficult situation go beyond the present labor scandals and the contract negotiations, which are now in the stage of preliminary jousts in the public arena.

What this may lead to, I leave to you. I merely direct attention to the fact that not only recent developments but many others of the last quarter century have tended to make our unions far more political organizations than they were at an earlier date. American unions have always been interested in politics, but at most times not vitally so, especially when one labor federation was dominant and the principle was pretty well adhered to that each union had a definite jurisdiction which must be observed by employers and all other unions. At that time, labor-management disputes were fought out in the economic realm and public opinion mattered but little.

Today, the labor situation is very different. We again have one dominant federation, but a good many unions are outside the federation and within it there are bitter rivalries and controversies. The principle of defined jurisdiction has not been abandoned, but in many fields there are overlapping jurisdictions. More basic is the inherent conflict between defined jurisdictions and the workers' free choice of the union, which is incorporated in our national labor policy.

It may be that this policy of itself is operating to make our unions more like political organizations along European lines. In no free European country has the situation ever prevailed that one and only one national union has jurisdiction within a defined field, which goes along with the concept that all workers should belong to unions but that there is only one union to which a given worker may belong. With choice allowed between unions, politics or religion tend to become the only unifying forces in the labor movement. There has been no significant trend toward making religion a dominant factor in American unionism, but our policy of worker free choice inevitably,

I believe, has some tendency toward making the unions more political. It is my thesis that this is also a likely effect of the recent developments I have noted. It is futile to talk about keeping government out of labor-management relations so long as the parties are forever turning to government for help. When they do this, not only should they expect retaliation when the almost inevitable pendular swing occurs, but they should realize that they thereby tend to make the unions more political in their objectives. Being old fashioned, I prefer our traditional American type of unionism, but I can see politically-oriented unionism as a consequence of the increasing role we assign to government in labor-management relations.

LABOR AND INDUSTRIAL RELATIONS CENTER PUBLICATIONS

Books and Monographs

U. S. Industrial Relations—The Next Twenty Years, edited and introduced by Jack Stieber. Contributors: John T. Dunlop, Walter P. Reuther, John S. Bugas, David L. Cole, Edwin E. Witte, Clark Kerr. (Michigan State University Press: 1958. $5.00)

Economic and Social Implications of Automation: A Bibliographic Review, by Gloria Cheek. (Paperbound, $1.25)

Reprints

(No charge for single copies; prices for quantity orders furnished on request.)

Union Member Orientations and Patterns of Social Integration, by William H. Form and H. K. Dansereau. (1957)

Industrial Relations Directors: An Annotated Bibliography, by Dalton E. McFarland. (1957)

Automation and the White-Collar Worker, by Jack Stieber. (1957).

Grievance Adjudication in Public Employment, by Charles C. Killingsworth. (1958)

The Labor Relations Consultant as Contract Negotiator, by Dalton E. McFarland. (1958)

Automation in the Automobile Industry: Some Consequences for In-Plant Social Structure, by William A. Faunce. (1958)

The Crisis in American Unionism, by Edwin E. Witte. (1958)

The Place of Returning Migrants in a Stratification System, by William H. Form and Julius Rivera. (1958)

Proceedings of Conferences

The Grievance Process. Addresses by: William F. Whyte, Edward L. Cushman, Ken Bannon, J. Noble Braden; Panel Discussion and Demonstration Arbitration on Contracting-out Work. 1956. ($1.00)

Effective Utilization of Engineering Personnel. Addresses by: Alfred Iddles, William G. Caples, G. H. Hupman, A. F. Zander, G. S. Odiorne. (1957) (out of print)

The Emerging Environment of Industrial Relations. Addresses by: Joseph A. Loftus, Sylvester Petro, Boaz Siegel, Robert H. Guest, David G. Moore, Kenneth E. Boulding, Dugald Black, J. K. Galbraith, Walter Adams and Ewan Clague. (1958. $1.50)

Selected Papers on The Role of the Engineer-Scientist in America. Addresses by: Nicholas DeWitt, J. F. Calvert, Lewis K. Zerby, Trumbull Blake, Forest McFarland, L. J. Richards, A. R. Meacham, Howard L. Bevis. (1958. $1.00)

What Newspapers Expect of Labor Reporters, Address by Lee Hills, vice-president-executive editor, *The Detroit Free Press*. (1958. 15¢)

215—3M—96—SH

(Not printed at Government expense)

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 86th CONGRESS, SECOND SESSION

A Point 4 Youth Corps for Young Americans to Serve in Technical Assistance Missions

REMARKS

OF

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 14, 1960

AND

Tuesday, February 2, 1960

Mr. REUSS. Mr. Speaker, on January 14 I introduced H.R. 9638, an amendment to the Mutual Security Act, to provide for a study looking toward a Point 4 Youth Corps of young Americans willing to serve their country in public and private technical assistance missions in far-off countries, and at a soldier's pay.

SUITED FOR PRIVATE STUDY

The study of the practicability and advisability of a Point 4 Youth Corps is peculiarly one for a private university foundation or similar group. Since much of the utility of a Point 4 Youth Corps would be for private rather than public technical assistance missions, the study should not be governmentally conducted. As H.R. 9638 indicates, it should not be difficult for the President to find a private group willing to make such a study at no cost to the taxpayers.

H.R. 9638 sets forth the principal issues which such a study would need to resolve—the types of projects suited for a Point 4 Youth Corps, how they are to be carried out, the mix between public and private projects, the pay and administration of the corps, its relationship to selective service, preliminary training here and abroad, age of the participants, and many others.

The study group is directed to confer with all appropriate governmental agencies, and if it recommends the establishment of a Point 4 Youth Corps, to recommend draft legislation.

540502—73903

YOUTH CORPS OBJECTIVES

The objectives of the Point 4 Youth Corps are:

First. To make additional technical manpower available to U.S. agencies and to private agencies carrying out economic, medical, educational, and community development programs in underdeveloped friendly foreign countries.

Second. To assist in broadening the understanding by the peoples of other nations of the ideals and aspirations of Americans, through close contact with young Americans participating in the Point 4 Youth Corps.

Third. To offer our young people an opportunity to serve their country in a stimulating way, while broadening their understanding of the problems facing other peoples and nations, and thereby helping them better to understand American policies and purposes abroad.

WHAT THE BILL PROVIDES

In addition to setting forth the above objectives of the Point 4 Youth Corps, the bill provides that:

First. The President shall provide for the conduct by a nongovernmental research group, university, or foundation of a study with a view to ascertaining the advisability and practicability of the establishment by the United States of a program known as the Point 4 Youth Corps, under which young citizens will be trained and serve in programs of technical cooperation.

Second. The President shall endeavor to have such study conducted as a public service without Federal contribution; and any Federal contribution which may be required for such study shall not exceed $10,000.

Third. The group which conducts the study shall report its recommendations to the President and the Congress within 1 year. If the group recommends the establishment of the Point 4 Youth Corps, it shall also submit draft legislation for the implementation of the program.

FACTORS FOR CONSIDERATION

The study group's report is to include consideration of the following factors:

(A) The types of projects in which members of the Point 4 Youth Corps might be used, based upon investigation of existing and proposed private and governmentally sponsored projects, and how such projects should be carried out.

(B) The manner in which interested private American foundations, and groups such as service clubs, religious groups, farm organizations, labor unions, business groups, youth groups, and similar organizations, might cooperate in the operation of Point 4 Youth Corps projects.

(C) Whether or not it would be desirable to provide that service in the Point 4 Youth Corps shall be considered as satisfying the obligation of individuals to perform training and service in the Armed Forces.

(D) The optimum size of the Point 4 Youth Corps, the period of service which might be required, and the pay scales and conditions of employment which would be most desirable in the public interest.

(E) The pattern and manner of orientation and training in the United States and abroad that would be required to make young American adults effective workers in programs of technical cooperation conducted under this title or otherwise.

(F) Whether it would be practicable and advisable to recruit young American adults who have completed less than 4 years of college.

(G) Whether the Point 4 Youth Corps should be placed under the administration of a Federal agency or a private group on a contract basis, or both.

(H) The manner in which the Point 4 Youth Corps could most usefully supplement current governmental and private programs of technical cooperation.

A SENSE OF PURPOSE

The establishment of a Point 4 Youth Corps would assure an adequate supply of young Americans to man public and private technical assistance missions in the years to come. But there are two even more important things to be said for a Point 4 Youth Corps.

Young Americans in their late teens and early twenties need a sense of purpose—the excitement and stimulus of taking part in real events. The philosopher, William James, pointed this out a half century ago when he suggested in his essay, "The Moral Equivalent of War," that a season on a fishing schooner or on a cattle ranch could well provide the sense of excitement and purpose which war—at least old-fashioned war—was supposed to provide. If the evolution of the have-not nations is at once the greatest challenge and adventure of the age, young Americans are going to want to become involved in it.

SPREAD AMERICAN IDEALS

From the standpoint of a successful American foreign policy, a Point 4 Youth Corps could be equally beneficial. The peoples of the developing countries need economic assistance, but even more they can profit from exposure to the ideas of Thomas Jefferson and Abraham Lincoln. Young Americans who are willing to help with an irrigation project, with digging a village well, with setting up a rural school, could be one of our best ways for creating such a picture of America.

It is said that Napoleon once confessed his failure in these words:

> Alexander, Caesar, Charlemagne, and I myself have founded empires; but upon what do these creations of our genius depend? Upon force. Jesus alone founded His empire upon love; and to this very day, millions will die for Him.

Power has revealed its limitations. Why not try a little love?

YOUTH CORPS ENDORSED

Among the comments on H.R. 9638 are the following:

The Christian Science Monitor in its January 20 edition endorsed the Point 4 Youth Corps in the following editorial:

POINT 4 YOUTH CORPS

Representative HENRY REUSS, of Wisconson, is offering Congress one of the best ideas yet devised for the competitive coexistence era.

He has filed a bill authorizing a study of the feasibility of a Point 4 Youth Corps, a draft-pay, draft-duration, draft-tough alternative to selective service for qualified young Americans who choose to serve their country in foreign rice paddies instead of the drill field.

We urge Congress to unearth and pass this bill speedily.

STATESIDE TRAINING

It will commit no one finally. It will cost little or nothing, since the study would be made by a private university or foundation as a public service. But it concerns a phase of the international struggle, the future gravitation of underdeveloped nations, that never has marked time waiting for Congress.

Although the program cannot be fully spelled out until all possibilities and pitfalls are studied, it would work in roughly this manner:

John Farmer is draft exempt while completing his agricultural course at Texas A. & M. After graduation he applies for a village-level job teaching modern farming methods under the International Cooperation Administration or Ford Foundation.

If he does not meet the qualifications, he reverts to draftable status.

But if he is accepted, John gets perhaps a 3-month stateside training period for his job (as rigorous in its way as Army basic training) and then is sent to a village project in India, where he will be paid the minimal wage and allowances he might have gotten for straight draft service. His hitch, like that of his rifle-toting buddy, is for 2 years.

Let's examine possible objections to the idea:

1. It might provide a haven for draft dodgers.

Since public and private technical assistance agencies would themselves pass on quotas and qualifications, acceptance of goldbrickers seems unlikely.

2. It might siphon off top educated talent from the military draft.

10,000 TO START WITH

Under current low draft quotas only a small percentage of this talent is being called anyway. Mr. REUSS envisions a Point 4 Youth Corps of not more than 10,000 to start with.

3. Veterans groups might object to youth corps dischargees being eligible for educational, pension, and medical benefits.

To meet this objection, Mr. REUSS and his analysts incline toward dropping veterans' benefits. We would agree, with the exception of the GI bill educational provisions, which would have even greater value for the Nation if extended to youths whose further study might provide a substantial number of first-rate new diplomats, international businessmen, and foreign service officials.

We would urge, as an additional safeguard, that recruiting posters and brochures for any such program emphasize that it is not a glamor world cruise, but one likely to involve more discomfort (and certainly less PX life) than peacetime Army service.

With these precautions taken, the advantages of the proposed youth corps are enormous.

The "have-not" nations are clearly going to be the battle front for the world balance of power and for freedom in the coming generation. Money and military aid alone will not win that battle. Moscow and Peking are carefully training cadres to go out into the villages. The authoritarian control they work under puts them at a disadvantage. But only if there are in sight comparable workers who are both free and technically capable.

Mr. REUSS' plan would help show the emerging peoples in a personal way the American altruism that now is too often lost amidst dollar signs. It would strengthen language training, promote a more professional foreign service, and give enthusiastic young Americans a more mature understanding of the world they will have to face. In short, it merits bipartisan priority treatment.

SENATE BILL INTRODUCED

Senator RICHARD L. NEUBERGER, of Oregon, introduced an identical measure—S. 2908—in the Senate January 26. At that time he said the "idea is a good one, a challenge to youth and a possible aid to more effective foreign policy implementation."

Introduction of the two bills, newspaper accounts of the proposal, and editorial comment prompted a steady flow of mail on the bill. With a single exception, every letter has supported the Point 4 Youth Corps plan. Many letters have offered compelling reasons for adopting the plan, others have offered constructive suggestions for the study group's consideration.

MAIL SUPPORTS BILL

In conclusion, Mr. Speaker, I offer for the RECORD some excerpts from and the full text of some of the hundreds of letters already received which contain a representative sample of the comments and suggestions that have been made about the bill:

BETHESDA, MD., *January 18, 1960.*

Hon. HENRY S. REUSS,
Bethesda, Md.

DEAR CONGRESSMAN REUSS: During the past year I have been associated with a group of physicians who have been trying to effect a program in medicine designed to allow a few properly motivated young physicians to serve their Government draft obligations while working in some of the underdeveloped countries of the world. We have sought advice from various quarters including some officials of W.H.O., and although we always received encouragement, the point was repeatedly made that nothing could be done until interest was generated within the Government. I hope that your study will do just this.

We, like you, have reasoned that a unique and substantial contribution might be made by the young people of this country who have achieved some degree of proficiency in agriculture, engineering, teaching, medicine, etc. However, it is important that they be properly motivated and not participate solely to avoid the draft or at the other extreme with a great deal of missionary zeal. Aside from the necessary qualities of maturity and leadership, these young people should have time to acquire a reasonable knowledge of the language, customs, and problems of the area they are going to serve before embarking.

This type of program need not be considered a one-way or charity affair by this country, for foreign service such as you propose will provide a few of our young people with a unique educational experience, and I feel sure that they would return to this country with many new ideas conceived abroad. If a democratic nation such as ours is to conduct its affairs wisely in this increasingly complex world, it is in that country's own interest to provide a segment of its future responsible citizens with an experience such as this.

Very truly yours,

ROBERT E. CANFIELD, M.D.

IMAGINATIVE REEXAMINATION

INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT, AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA—UAW,
Washington, D.C., January 26, 1960.

Congressman HENRY S. REUSS,
New House Office Building,
Washington, D.C.

DEAR CONGRESSMAN REUSS: As you may know, President Walter P. Reuther, myself, and the UAW, have been urging this kind of imaginative reexamination of our problems and this kind of creative, specific approach to the international reality for a long time.

In my view, and I should add in the view of our union, your proposal can become a most important escape route from the rut in which American foreign policy and much of American domestic policy now jog along.

I wish to convey to you immediately the hope of those of us in the UAW that you will call upon us to work with you in every way that we can to help you realize the purposes of the bill.

At the same time it has occurred to me that you might be interested in the way the UAW considered that aspects of our education and our point four programs might be dealt with.

Thus, testifying for the UAW before the Senate Foreign Relations Committee on May 22, 1959, I declared: "As part of a boldly expanded economic aid and technical assistance program, and a rounded program to wipe out our shocking education deficits in terms of classrooms, teachers' salaries, and high school and college scholarship aid, we could estblish a system of scholarships which would give 100,000 of our most promising graduates opportunity, if need be in lieu of military service, of joining an enlistment for peace for a period of 1 year longer than the time required for military services. They would be trained in the fields of their choice and would be given an opportunity to use their abilities and skills taught in our educational institutions in a worldwide effort to raise the standard of living."

RICH SOURCE OF MANPOWER

"These trained and experienced young men and women would be a rich source of manpower for our State Department and other foreign service agencies."

Earlier, on February 28, 1958, before the Fifth National Conference on International Economic and Social Development, again speaking the conviction of the membership of the UAW, I pointed in the direction of the proposal you have made:

"I should also like to suggest that we direct the current interest in overcoming our education deficits toward the system of education which can meet the challenge in its present dimensions, of conflict between war and peace, freedom and communism. We must make certain that our developing human resources are adequate to the material goods which we propose to make available to a needy world. To reach the dimension of a boldly expanded economic aid and technical assistance, we should set in motion the training of at least 100,000 of our most promising youth to help assure the success of this vital program. We could establish a system of scholarship aid which would provide that 100,000 of our most promising young graduates would have the choice, if need be in lieu of military service, for enlisting for a period of 1 year longer than required for military service in an enlistment for peace. Under this scholarship aid they would train in the fields of their choice and provide an opportunity to use the abilities and skills taught in our educational institutions in a worldwide effort to raise the standards of living.

"These young volunteers for peace, trained in the language, culture and technical skills required would constitute a human reserve from which the underdeveloped areas could drawn upon in their efforts to fight poverty, hunger, ignorance and disease, which is the positive aspect of the struggle against tyranny. The more young Americans we could make available throughout the world as technical missionaries with slide rules, with medical kits, with textbooks to fight communism on a positive basis, the fewer young Americans we will need to send with guns and flamethrowers to fight communism on the battlefields of the world. The kind of education program I am thinking about would make it possible to enlist thousands of young Americans in the rewarding struggle to win the peace."

I hope that your measure gets the rapid approval our need for the prescription indicates. Given the tempo at which the world is moving now, and the highly fluid context in which we are contending with the Communist totalitatians my conviction is that the investigation should not take too long.

Sincerely yours,

VICTOR G. REUTHER,
Administrative Assistant to the President.

LETTER FROM VETERAN

Donald E. Weeden, a New York businessman and veteran, wrote:

At the time of my graduation from Stanford University in 1951 * * * I seriously considered joining such a program. None was available and the call of service prevented looking further. I would think that in a period of peace the interets in such a program by graduating college seniors would be enormous. I also think the multitude of benefits accruing to the individual youth and to both the giving and receiving countries would repay the cost of the program a hundredfold.

First Lt. G. S. L. Crowl said:

As a college graduate and career officer, I do not think such a program would seriously affect the officer procurement programs of the several services. Most of the people taking alternative service would be short timers anyway.

MASSACHUSETTS GENERAL HOSPITAL,
Boston, January 20, 1960.

The Honorable HENRY S. REUSS,
Representative from the State of Wisconsin, U.S. House of Representatives, Washington, D.C.

DEAR REPRESENTATIVE REUSS: In 1955–56 I spent a year working in Lashkergah, Afghanistan, for the State Department and ICA doing, largely, public helath work. It was obvious that one of the major problems with the American program was recruitment of personnel. Many of the technicians served abroad because (1) of some serious complication in their personal or professional life at home, or (2) they hoped to retire on a higher pension by virtue of raising their Government rank simply by service overseas. Many of the technicians were too old and set in their ways to have the resiliency and enthusiasm needed to do a good job working in a foreign country.

WOULD BE VERY BENEFICIAL

A system that would make it attractive for enthusiastic, idealistic young people to serve overseas would be very beneficial. As you have recognized, it is possible to work in many areas without extensive professional training. Certainly if they worked under the direction of someone with professional training, relatively inexperienced people could do fine work. Probably this initial exposure would lead to the recruitment of many individuals for continued overseas work. The development of a cadre of individuals interested in foreign aid work as a career, similar to the present Foreign Service and with equivalent standards is urgently needed.

I believe the institution of your program as an alternative to military service would tremendously strengthen our foreign aid program, and demonstrate to foreign countries our intention of providing them technical assistance on a long-term basis.

Sincerely yours,

LESLIE J. DEGROOT, M.D.

Prof. David G. Scanlon, professor of international education and Coordinator, ICA, projects abroad, Teachers College, Columbia University, wrote:

It certainly sounds like the kind of program we need so badly * * * an imaginative program that could accomplish so much.

Prof. William P. Marquardt, coordinator, programs in teaching English as a second language, New York University School of Education, commented:

The most important step toward international understanding and world peace I have seen taken since the creation of the Fulbright * * * program nearly 15 years ago.

TRAINING QUALIFIED PEOPLE

QUINCY HOUSE,
HARVARD UNIVERSITY,
Cambridge, Mass., January 18, 1960.

Representative HENRY S. REUSS,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN REUSS: I am writing you in support of the proposal for a Point 4 Youth Corps, which I understand you are studying at this point. As a teacher of international relations and someone who spent 4½ years in Asia, Africa, the Middle East, and Europe, I am very much concerned that serious thought be given to a proposal such as that which you are considering.

For all its faults, the recent best-seller, "The Ugly American," did serve to dramatize the great problem which a free society has in attracting and training qualified people for service overseas. A proposal such as yours has the virtue of giving people on-the-job training in foreign areas which may attract them to careers in this field, and, let us hope, of developing linguistic and area specialists in critical countries.

I hope that the work would not be exclusively in village and rural areas, since some of the most significant needs are in cities, and I would suggest that this service be possible not only in government agencies but also with private groups.

Yours truly,

PAUL E. SIGMUND, Jr.,
Alliston Burr Senior Tutor Instructor in Government.

DESERVES PROMPT ACTION

WILMINGTON, DEL., *January 18, 1960.*
Representative HENRY S. REUSS,
U.S. House of Representatives,
Washington, D.C.

DEAR SIR: The New York Times of January 17 reports that the Congress is considering a program of work on overseas development projects as a substitute for military service by young Americans. Your bill for a study of such a Point 4 Youth Corps deserves prompt action. This same idea occurred to me during my own military service, and I want to urge that the Congress do everything possible to create such a program.

I served 2 years as a draftee in the U.S. Army, and during that time I spent a year in Italy. I was appalled at the enormous waste of trained talent by the Army. Countless young Americans, some of them with considerable technical training, were performing no really useful function. Many of these young men had been trained by the Army at considerable cost. My own case, while not typical, was not by any means an isolated one. At the time I was inducted into the Army, I had received a doctorate in physical-organic chemistry and had had some industrial research experience. I and many of my scientifically trained military colleagues would have been overjoyed at the possibility of contributing some constructive activity in any overseas area.

My experiences in Italy led me to feel that a joint work-study program might be very fruitful. A single semester of study in a university of the host country would provide an introduction to that country's language, customs, and problems. This could be followed by an 18 month (or longer) period of service in the same nation. Aside from purely technical work, some young people could profitably be used in information agencies. In Italy, I found that USIA maintained no facilities at all at universities. USIA libraries (in Florence and Rome, for example) are situated in luxury, rather than in working-class neighborhoods; they are too formal to attract young people; and they are open at the wrong times of day. Numerous small, informal centers, staffed by young people, would certainly be more effective in conveying the living message of what our country is, and what it seeks.

Very truly yours,

GILBERT J. SLOAN.

RAPPAPORT & LAGAKOS,
Philadelphia, Pa., January 21, 1960.
Hon. HENRY S. REUSS,
New House Office Building,
Washington, D.C.

DEAR SIR: We wish to commend your efforts on the possibility of a Point 4 Youth Corps.

Our son was inducted into military service after graduating from Columbia University law school. He spent almost all of the time stationed in Germany, marking time with dull minor clerical duties. The waste of young, intelligent manpower in this regard is appalling and detrimental to our best national interests.

Very truly yours,

JOSEPH RAPPAPORT.

Mrs. Harold Lyke, Gibsonia, Pa., parent, wrote:

I have two sons, one doing graduate work in zoology at the University of Wisconsin and the other at Swarthmore College. * * * Both boys could contribute a great deal in a program such as you suggest.

IMMENSELY VALUABLE

Miss Jennie M. Doidge, Christian education director, Cleveland Area Church Federation, said:

I wish to express my great interest and belief in this type of program, provided * * * we utilize the experiences of other groups that have been at work * * * in this field.

HARVARD UNIVERSITY,
DEPARTMENT OF PHILOSOPHY,
Cambridge, Mass., January 20, 1960.
The Honorable HENRY S. REUSS,
House of Representatives,
Washington, D.C.

DEAR MR. REUSS: I have just finished reading the text of H.R. 9638. It seems to me that such a program would be immensely valuable, both to the nations affected, and to the United States itself. There is no better way to generate interest in the problems of underdeveloped countries than to send large numbers of intelligent and well-educated young people abroad for work and study.

May I make one suggestion which well may have occurred to you, but which was not mentioned in your remarks. It seems likely to me that a program of the sort you outline would be an ideal way to stimulate interest in Foreign Service careers. I should think that many college graduates would become so interested in the countries in which they have worked that on their return to the United States they would apply for admission to area study programs in universities, or to the Foreign Service training program. Perhaps you could interest these programs in giving study credit for the language and other training which the Youth Corps members had obtained during their 2 years. Perhaps also Members of Congress, such as Senator FULBRIGHT, who have shown interest in the development of the Foreign Service, would be prepared to join with you.

I would be grateful to you for information of any further developments in this plan. As one who had the experience of being made chief latrine cleaner in his platoon, I can attest to the current waste of education and ability in the Armed Forces.

Sincerely yours,

ROBERT P. WOLFF,
Instructor in Philosophy.

COMPLETE TEXT OF BILL

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 307 of the Mutual Security Act of 1954 is amended by inserting "(a)" immediately after "SEC. 307. Advances and Grants; Contracts.—", and by adding at the end thereof the following:

"(b)(1) The President shall provide for the conduct by a nongovernmental research group, university, or foundation of a study with a view to ascertaining the advisability and practicability of the establishment by the United States of a program, known as the 'Point Four Youth Corps', under which young citizens will be trained and serve in programs of technical cooperation. The objectives of the Point Four Youth Corps will be—

"(A) to make additional technical manpower available to United States agencies and to private agencies carrying out economic, medical, educational, and community development programs in underdeveloped friendly foreign countries;

"(B) to assist in broadening the understanding by the peoples of other nations of the ideals and aspirations of Americans, through close contact with young Americans participating in the Point Four Youth Corps; and

AN OPPORTUNITY TO SERVE

"(C) to offer our young people an opportunity to serve their country in a stimulating way, while broadening their understanding of the problems facing other peoples and nations, and thereby helping them better to understand American policies and purposes abroad.

The President shall endeavor to have such study conducted as a public service without Federal contribution toward the expenses thereof; and any Federal contribution which may be required for such study shall not exceed $10,000, to be paid out of sums appropriated pursuant to section 304 of this act.

"(2) Within 1 year after the date of enactment of this subsection, the group, university, or foundation which conducts such study shall report to the President and to the Congress its recommendations with respect to the establishment by the United States of the Point Four Youth Corps, and if the establishment of such Corps is recommended, such report shall be accompanied by draft legislation proposed for the implementation thereof. The report shall include, but not be limited to, the consideration of the following factors—

"(A) The types of projects in which members of the Point Four Youth Corps might be used, based upon investigation of existing and proposed private and governmentally sponsored projects, and how such projects should be carried out;

"(B) The manner in which interested private American foundations, and groups such as service clubs, religious groups, farm organizations, labor unions, business groups, youth groups, and similar organizations, might cooperate in the operation of Point Four Youth Corps projects;

"(C) Whether or not it would be desirable to provide that service in the Point Four Youth Corps shall be considered as satisfying the obligation of individuals to perform training and service in the Armed Forces;

"(D) The optimum size of the Point Four Youth Corps, the period of service which might be required and the pay scales and conditions of employment which would be most desirable in the public interest;

"(E) The pattern and manner of orientation and training in the United States and abroad that would be required to make young American adults effective workers in programs of technical cooperation conducted under this title or otherwise;

"(F) Whether it would be practicable and advisable to recruit young American adults who have completed less than four years of college;

"(G) Whether the Point Four Youth Corps should be placed under the administration of a Federal agency or a private group on a contract basis, or both; and

"(H) The manner in which the Point Four Youth Corps could most usefully supplement current governmental and private programs of technical cooperation.

"(3) The group, university, or foundation which conducts such study is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, information, suggestions, and statistics for the purpose of this subsection; and each such department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed to furnish such information, suggestions, estimates, and statistics directly to such group, university, or foundation upon its request."

540502—73903

U.S. GOVERNMENT PRINTING OFFICE: 1960

Text of the

AFL-CIO INTERNAL DISPUTES PLAN

adopted by the

Fourth Constitutional Convention

Miami Beach, Florida

December, 1961

ARTICLE XXI

Settlement of Internal Disputes

SECTION 1. The principles set forth in this Article shall be applicable to all affiliates of this Federation, and to their local unions and other subordinate bodies.

SECTION 2. Each affiliate shall respect the established collective bargaining relationship of every other affiliate. No affiliate shall organize or attempt to represent employes as to whom an established collective bargaining relationship exists with any other affiliate. For purposes of this Article, the term, "established collective bargaining relationship" means any situation in which an affiliate, or any local or other subordinate body thereof, has either (a) been recognized by the employer (including any governmental agency) as the collective bargaining representative for the employes involved for a period of one year or more, or (b) been certified by the National Labor Relations Board or other federal or state agency as the collective bargaining representative for the employes.

SECTION 3. Each affiliate shall respect the established work relationship of every other affiliate. For purposes of this Article, an "established work relationship" shall be deemed to exist as to any work of the kind which the members of an organization have customarily performed at a particular plant or work site, whether their employer is the plant operator, a contractor, or other employer. No affiliate shall by agreement or collusion with any employer or by the exercise of economic pressure seek to obtain work for its members as to which an established work relationship exists with any other affiliate, except with the consent of such affiliate. The foregoing sentence of this section shall not be applicable to work in the railroad industry.

SECTION 4. In the event that any affiliate believes that such special and unusual circumstances exist that it would be violative of its basic jurisdiction or contrary to basic concepts of trade union morality or to the constitutional objectives of the AFL-CIO or injurious to accepted trade union work standards to enforce the principles which would apply in the absence of such

circumstances, such organization shall nevertheless observe such principles unless and until its claim is upheld in the manner prescribed in Section 17 of this Article.

SECTION 5. No affiliate shall, in connection with any organizational campaign, circulate or cause to be circulated any charge or report which is designed to bring or has the effect of bringing another affiliate into public disrepute or of otherwise adversely affecting the reputation of such affiliate or the Federation.

SECTION 6. Dispute settlements and determinations under this Article shall not determine the general work or trade jurisdiction of any affiliate but shall be limited to the settlement or determination of the specific dispute on the basis of the facts and considerations involved in that dispute.

SECTION 7. The President shall establish procedural rules for the handling of complaints under this Article so that all affiliates involved in or affected by a dispute will have notice thereof, will have an opportunity for the voluntary settlement of the dispute, and, in the event of a failure to reach a voluntary settlement, will have a full and fair hearing before an Impartial Umpire. The rules shall be such as to insure a speedy and early disposition of all complaints arising under this Article.

SECTION 8. The President shall establish a panel of mediators composed of persons from within the labor movement. The members shall serve at the pleasure of the President. Any affiliate which claims that another affiliate has violated this Article may, by its principal officer, file a complaint with the President. Upon receipt of such complaint the President shall designate a mediator or mediators, selected by him from the mediation panel, and direct that all affiliates involved or affected meet with such mediator or mediators in an effort to effect a settlement.

SECTION 9. A panel of Impartial Umpires composed of prominent and respected persons shall be established. The members of the panel shall be selected by the President with the approval of the Executive Council. If voluntary settlement of a dispute is not reached within fourteen days after the appointment of a mediator or mediators, a hearing shall be held before

an Impartial Umpire selected from such panel. Impartial Umpires shall be assigned on a rotating basis, subject to their availability to conduct hearings. The terms of employment of the members of the panel shall be established by the President, with the approval of the Executive Council.

SECTION 10. The Impartial Umpire shall make a determination, after hearing, based upon the principles set forth in this Article. He shall make such determination within a time specified by the President, unless an extension of time is agreed to by the parties. The President shall transmit copies of the determination to all affiliates involved. He shall, at the same time, request any affiliate which the Impartial Umpire has found to be in violation of this Article to inform him as to what steps it intends to take to comply with such determination. Any response received, or the fact that no response has been received within a time fixed by the President, shall be communicated to the other parties to the dispute.

SECTION 11. The President may extend any time limit if, in his judgment, such extension will more readily effectuate an early settlement or determination of a dispute. Whenever, in the judgment of the President, pressing reasons require an accelerated settlement or determination, he may shorten or eliminate the mediation process or refer the dispute directly to an Impartial Umpire.

SECTION 12. If no appeal is filed from a determination of the Umpire within five days as provided below the determination shall automatically go into full force and effect. Any affiliate which is adversely affected by a determination of the Umpire, and which contends that the determination is not compatible with this Constitution, or not supported by facts, or is otherwise arbitrary or capricious, may file an appeal with the President within five days after it receives the Umpire's determination. Any such appeal shall be referred by the President to a subcommittee of the Executive Council.

SECTION 13. The subcommittee of the Executive Council may disallow the appeal, in which event the determination of the Umpire shall be final, and subject to no further appeal and shall go into full force and

effect; or the subcommittee may refer the appeal to the Executive Council, in which event the determination of the Umpire shall be automatically stayed pending disposition of the appeal by the Executive Council. The determination of the Umpire shall be sustained unless it is set aside or altered by vote of a majority of all of the members of the Executive Council. The decision of the Executive Council where an appeal is granted shall be final, and shall be effective as of the date therein specified.

SECTION 14. Any affected affiliate may file a complaint with the President that another affiliate has not complied with an effective determination of the Impartial Umpire or of the Executive Council on appeal. Upon receipt of such a complaint the President shall immediately convene a meeting of the subcommittee of the Executive Council referred to above. If non-compliance with the determination is found at such meeting, notice of such non-compliance shall be issued by the President to each affiliated national or international union and department.

SECTION 15. Immediately upon the issuance of such notification, the following shall apply:

(1) The non-complying affiliate shall not be entitled to file any complaint or appear in a complaining capacity in any proceeding under this Article until such non-compliance is remedied or excused as provided in Section 16;

(2) The Federation shall, upon request, supply every appropriate assistance and aid to any organization resisting the action determined to be in violation of this Article;

(3) The Federation shall appropriately publicize the fact that the affiliate is not in compliance with the Constitution;

(4) No affiliate shall support or render assistance to the action determined to be in violation of this Article.

In addition, the Executive Council is authorized, in its discretion, to:

(1) Deny to such an affiliate the use of any or all of the services or facilities of the Federation;

(2) Deny to such an affiliate any protection

under any of the provisions or policy determinations of the Federation;

(3) Apply any other authority vested in the Executive Council under this Constitution.

SECTION 16. Any affiliate which has been found to be in non-compliance and which has been deprived of its rights under this Article may apply for restoration of such rights. Notice of such application shall be given to all of the affiliates involved in the determination or determinations as to which there is non-compliance. If such affiliates consent, the President shall be authorized to restore the rights of the non-complying affiliate after it states its intention in writing to comply thenceforth with the provisions of this Article. If any affiliate involved in the cases of non-compliance opposes the application, the rights of the non-complying affiliate shall be restored only under the following conditions:

(a) The non-complying affiliate states its intention, in writing, to comply thenceforth with the provisions of this Article;

(b) The non-complying affiliate has undertaken whatever measures may be necessary and practicable to remedy the situation;

(c) The application for restoration of rights is approved by two-thirds vote of the Executive Council, or by a majority vote of the convention.

SECTION 17. Any affiliate which claims justification under Section 4, for action, which would, in the absence of such justification violate the provisions of this Article, shall process its claim, prior to taking action, under the provisions of this Section. Such claim shall set forth the basis upon which the claim is made and the action which the affiliate proposes to take. The claim shall thereafter be processed as provided in this Article except that the determination as to whether the facts justify the proposed action shall not be made by the Impartial Umpire. The Impartial Umpire shall determine whether the proposed action would violate the provisions of this Article in the absence of justification, shall find the facts with respect to the claim of the justification, and submit a report to the Executive Council. The Executive Council shall determine on the report of the Impartial Umpire whether the proposed action would violate the provisions of this Article in the absence of justification; and,

if it concludes by majority vote that the proposed action would so violate it shall find such justification only by a vote of two-thirds of the membership of the Council.

SECTION 18. The President shall be authorized to delegate to such person or persons as he may designate any of his powers or functions under this Article except the authority granted by Sections 12, 14, and 16.

SECTION 19. Where a dispute between affiliates subject to resolution under this Article is also covered by a written agreement between all of the affiliates involved in or affected by the dispute, the provisions of such agreement shall be complied with prior to the invocation of the procedures provided in this Article. If such agreement provides for final and binding arbitration, and an affiliate party to such agreement claims that another such affiliate has not complied with a decision under that agreement, it may file a complaint under the provisions of Section 14 of this Article and the procedures provided in this Article in the case of noncompliance shall be applicable. Where a dispute between affiliates subject to resolution under this Article is also covered by a written agreement between affiliates but involves or affects an affiliate not a party to such an agreement, the affiliate not a party to such agreement may invoke the procedures provided in this Article for the settlement and determination of such dispute.

SECTION 20. The provisions of this Article with respect to the settlement and determination of disputes of the nature described in this Article shall constitute the sole and exclusive method for settlement and determination of such dispute and the provisions of this Article with respect to the enforcement of such settlements and determinations shall constitute the sole and exclusive method for such enforcement. No affiliate shall resort to court or other legal proceedings to settle or determine any disputes of the nature described in this Article or to enforce any settlement or determination reached hereunder.

SECTION 21. The provisions of this Article shall take effect on January 1, 1962. Upon such effective date, the provisions of Article III, Section 4, of this Constitution, except the first sentence thereof, shall be of no further force and effect. However any dispute

which has become subject to a formal complaint under such provision prior to January 1, 1962, shall be disposed of under the procedures and principles theretofore applicable and not under the procedures or principles set forth in this Article, except that any recommendation of the Impartial Umpire issued subsequent to January 1, 1962, shall be subject to the provisions of Sections 14 through 16 of this Article.

SECTION 22. Notwithstanding any other provision of this Constitution this Article shall be subject to amendment by the convention by a majority vote of those present and voting either by a show of hands, or, if a roll call is properly demanded as provided in this Constitution, by such roll call.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

815 16th Street, N. W., Washington 6, D. C.

GEORGE MEANY
President

WM. F. SCHNITZLER
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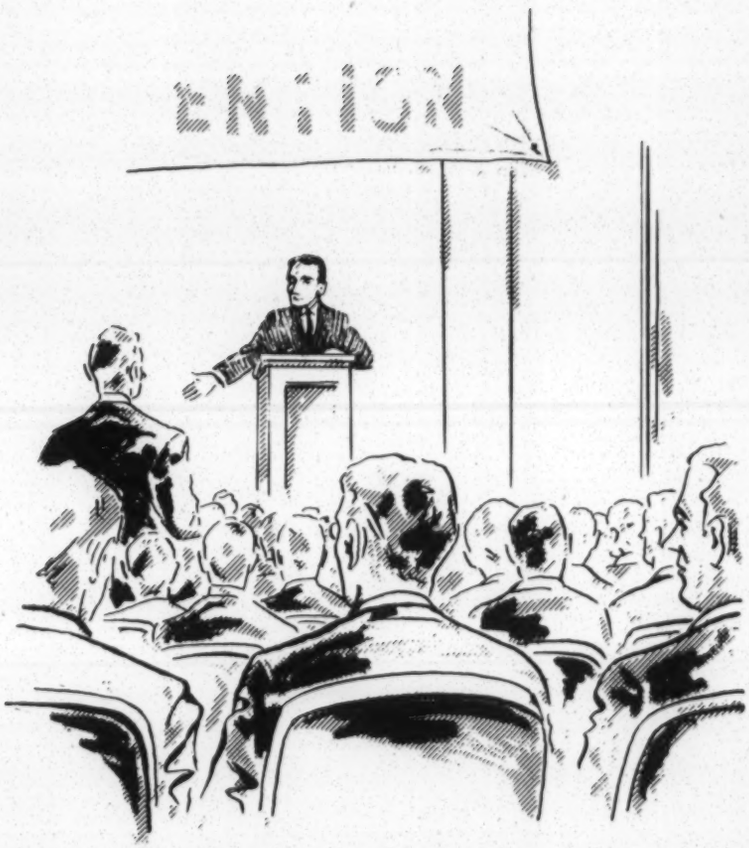
LOCAL CONVENTION REPRESENTATION AND CONSTITUTIONAL AMENDMENTS IN NATIONAL UNIONS



U.S. DEPARTMENT OF LABOR

W. Willard Wirtz, Secretary

LABOR-MANAGEMENT SERVICES ADMINISTRATION

Office of Labor-Management Policy Development

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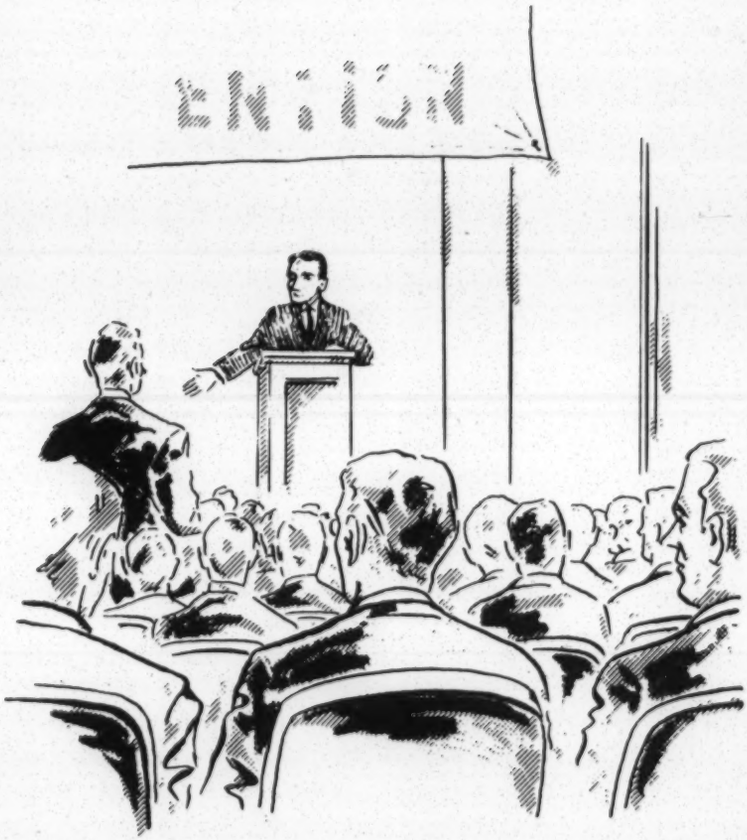

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PREFACE

At the end of 1964 the U.S. Supreme Court wrote finis to a dispute which had been going on for more than a year in the American Federation of Musicians over a constitutional amendment which increased membership dues. This union had adopted the amendment at its 1963 convention, but its opponents charged that the method of adoption violated the Labor-Management Reporting and Disclosure Act of 1959 by allowing the delegates to cast votes weighted by the number of members each represented.

The Supreme Court decided that the LMRDA had not been violated by this procedure, but the litigation focused attention on the different methods provided by national unions for amending their constitutions and for allocating delegates and voting strength among their constituent local unions.

These are the areas which are explored in this study, which was prepared by Charles E. Skopic under the supervision of August F. Cantfil. The work was under the general direction of Herbert J. Lahne, Chief of the Division of Research and Analysis.

June 1965

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I. Introduction

On December 7, 1964, the U.S. Supreme Court overruled the District Court and the Circuit Court of Appeals and held that the American Federation of Musicians did not violate the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) when it amended its constitution to increase membership dues.

At issue was Section 101(a)(3) of the LMRDA which provides that national unions may increase dues "by majority vote of the delegates" voting at a convention. The lower courts had held that this meant "one delegate, one vote," whereas the Musicians' 1/ constitution permits each local's delegates to cast a number of votes equal to the number of members in their locals. The Supreme Court decided that the "majority" vote referred to in the statute included the concept of "a majority of the votes cast," and thus a vote "weighted according to the number of people the delegate represents" meets the requirements of the statute. 2/

The legal issue is now settled, but the Musicians' case raised questions regarding the voting methods used by national unions to amend their constitutions, the methods of allocating convention delegates to locals, and

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1/ Shortened national union names are used throughout the study; the full names of the unions are listed in the appendix.

2/ Wittstein, et al. v. American Federation of Musicians, U.S. District Court for the Southern District of New York, October 1963, 223 F. Supp. 27, 54 LRRM 2393; affirmed by the U.S. Court of Appeals for the Second Circuit, December 1963, 326 F. 2d 26, 54 LRRM 2792. Petition for Writ of Certiorari granted by U.S. Supreme Court, March 9, 1964, 376 U.S. 942; lower Courts reversed by U.S. Supreme Court, December 7, 1964, 379 U.S. 171, 85 S. Ct. 300, 57 LRRM 2566.

the apportioning of convention voting strength among these delegates. The approach of this study is first to survey the voting methods by which national unions can amend their constitutions, giving special attention to methods of amending dues provisions. Then follows an examination of local union delegate and voting representation at national union conventions, as prescribed by the national union constitutions, to show the general pattern of convention representation afforded to locals of the various organizations. Finally, the convention voting formulas of these organizations are examined to determine whether or not local delegates can cast more than 1 vote when a roll call is taken.

The study is based on an analysis of the constitutions of 73 national unions. This universe includes all national unions with more than 40,000 members that have subordinate locals reporting under the LMRDA. In all, these 73 national unions represent 15.7 million members, which is almost 90 percent of the total membership of all national unions. 3/ The size characteristics of the national unions studied are presented in Table 1. The constitutions analyzed are those in effect as of June 1963.

3/ According to the Bureau of Labor Statistics' Directory of National and International Labor Unions in the United States, 1963, Bulletin No. 1395.

TABLE 1
National Union Size Characteristics and Dates of Constitutions Analyzed 1/

National union 2/	Date of constitution analyzed 3/	Number of local unions 4/	Number of members (000) 4/
Total	73	47,476	15,676
Actors & Artistes	3/63	-	58
Automobile Workers	5/62	1,271	1,074
Bakery & Confectionery Workers	8/62	133	75
Bakery Workers (Ind.)	1/62	-	-
Barbers	1/59	844	75
Boilermakers	5/61	425	125
Bookbinders	8/61	225	62
Brewery Workers	8/61	260	60
Bricklayers	9/62	950	151
Building Service Employees	5/60	379	294
Carpenters	1/63	2,800	739
Chemical Workers	10/62	400	82
Clothing Workers	5/62	680	376
Communications Workers	6/63	797	279
District 50-UMW (Ind.)	2/61	1,782	205
Electrical Workers-IBEW	10/62	1,735	793
Electrical Workers-IUE	1/63	551	295
Electrical Workers-UE (Ind.)	12/62	140	163
Engineers, Operating	4/60	371	297
Firemen & Oilers	5/61	648	47
Garment Workers, Ladies	7/62	453	441
Glass Bottle Blowers	3/61	246	60
Glass & Ceramic Workers	6/61	156	49
Grain Millers	5/63	350	60
Hod Carriers	10/61	930	429
Hotel, Restaurant Employees	5/61	546	445
Industrial Workers	9/61	320	68
Iron Workers	10/60	319	139
Laundry Workers (Ind.)	1/60	86	63
Locomotive Engineers (Ind.)	10/62	888	43
Locomotive Firemen	1/60	914	76
Longshoremen-ILA	12/59	397	62
Longshoremen & Warehousemen (Ind.)	4/63	77	60
Machinists	1/61	1,971	868
Maintenance of Way Employees	7/62	1,331	153
Maritime	12/60	-	48
Meat Cutters	7/60	440	333
Mine, Mill & Smelter Workers (Ind.)	10/62	175	75
Mine Workers, United (Ind.)	11/60	1,600	245
Molders	7/61	384	54
Musicians	10/62	675	282
Office Employees	6/62	223	60
Oil, Chemical & Atomic Workers	8/61	558	168
Packinghouse, Food & Allied Workers	7/62	425	98
Painters	1/60	1,304	196
Papermakers & Paperworkers	9/60	793	130
Plasterers	7/62	550	68
Plumbers	1/62	727	251
Printing Pressmen	2/61	758	116
Pulp, Sulphite & Paper Mill Workers	9/62	705	174
Railroad Trainmen	5/60	1,125	196
Railway Carmen	6/62	917	126
Railway & Steamship Clerks	12/59	1,670	300
Retail Clerks	7/59	307	364
Retail, Wholesale	5/62	293	159
Rubber Workers	11/62	425	158
Seafarers	3/63	-	70
Sheet Metal Workers	10/62	-	111
Shoe Workers	5/61	138	56
Stage Employes	9/62	986	61
State, County & Municipal Employees	4/60	1,644	220
Steelworkers	9/62	3,100	879
Teachers	10/62	550	71
Teamsters (Ind.)	7/61	871	1,457
Telephone Unions, Alliance (Ind.)	6/59	14	75
Textile Workers-TWUA	5/62	610	183
Textile Workers-UTW	10/60	222	41
Transit Union	1/62	393	134
Transport Workers	10/61	135	135
Typographical	1/63	769	106
Upholsterers	9/60	184	56
Utility Workers	5/62	211	69
Woodworkers	12/61	220	86

1/ The universe studied includes all national unions with subordinate locals reporting under the Labor-Management Reporting and Disclosure Act (LMRDA) and having more than 40,000 members according to the Bureau of Labor Statistics' Directory of National and International Labor Unions in the United States, 1963, Bulletin No. 1395.

2/ All national unions not identified by (Ind.) are affiliated with the AFL-CIO. The full name of each union is listed in an appendix to this study.

3/ Constitutions analyzed are those in effect as of June 1963.

4/ Source: Bureau of Labor Statistics' Directory of National and International Labor Unions in the United States, 1963, Bulletin No. 1395.

II. Methods of Voting on Constitutional Amendments

The recent litigation resulting from the dues increase amendment adopted by the Musicians' convention aroused interest in the voting procedures followed by other national unions to amend their constitution.

The 73 national unions included in this study can vote on proposed constitutional amendments by the following methods: 4/

(1)	Only by delegate vote at convention --------	32 unions
(2)	Only by membership referendum ----------	1 union
(3)	Either membership referendum or delegate vote at convention ----------	33 unions
(4)	Either membership referendum or delegate vote followed by a membership referendum ----------	7 unions
		73 unions

The unions falling into these categories can be identified from Table 2.

Procedures for enacting interim amendments, such as by action of the national executive board pending approval by convention or referendum vote, are not included in this study although some national constitutions contain such provisions. Also excluded are special or emergency amendment procedures which permit national officers or the national executive board to amend the constitution to comply with existing laws, or to cope with administrative problems relating to such matters as the union benefit plan or collective bargaining agreements. In this connection, Section 404 of the LMRDA

4/ A few unions amend certain provisions (including dues and per capita tax provisions) differently than other constitutional provisions. Different methods of voting on dues amendments are discussed later. Unions with special requirements for voting on certain constitutional amendments are noted in Table 2.

TABLE 2
Methods of Voting on Constitutional Amendments

National union 1/	Convention vote only	Membership referendum only	Membership referendum or: Convention vote	Membership referendum or: Convention vote followed by referendum
Constitutions with provisions	32	1	33	7
Number of members (millions) 2/	6.3	.1	7.7	1.6
As percent of total studied	40%	1%	49%	10%
Actors & Artistes		3/ x		
Automobile Workers	x			
Bakery & Confectionery Workers			x	
Bakery Workers (Ind.)			x	
Barbers			x	
Boilermakers	x			
Bookbinders				x
Brewery Workers			x	
Bricklayers	x			
Building Service Employees	x			
Carpenters			x	
Chemical Workers	x			
Clothing Workers			x	
Communications Workers			x	
District 50-UMW (Ind.)	x			
Electrical Workers-IBEW			x	
Electrical Workers-IUE				4/ x
Electrical Workers-UE (Ind.)				4/ x
Engineers, Operating			5/ x	
Firemen & Oilers	x			
Garment Workers, Ladies	x			
Glass Bottle Blowers	x			
Glass & Ceramic Workers			x	
Grain Millers	x			
Hod Carriers			x	
Hotel & Restaurant Employees			x	
Industrial Workers			4/6/ x	
Iron Workers	x			
Laundry Workers (Ind.)	x			
Locomotive Engineers (Ind.)			x	
Locomotive Firemen	x			
Longshoremen-ILA	x			
Longshoremen & Warehousemen (Ind.)			x	
Machinists				x
Maintenance of Way Employees	x			
Maritime				7/ x
Meat Cutters	x			
Mine, Mill & Smelter Workers (Ind.)	8/ x			
Mine Workers, United (Ind.)	x			
Molders			x	
Musicians	x			
Office Employees	x			
Oil, Chemical & Atomic Workers			x	
Packinghouse, Food & Allied Workers	8/ x			
Painters			7/ x	
Papermakers & Paperworkers			x	
Plasterers	x			
Plumbers			x	
Printing Pressmen			7/ x	
Pulp, Sulphite & Paper Mill Workers	x			
Railroad Trainmen	x			
Railway Carmen				x
Railway & Steamship Clerks			x	
Retail Clerks			7/ x	
Retail, Wholesale			x	
Rubber Workers	x			
Seafarers			x	
Sheet Metal Workers			x	
Shoe Workers				x
Stage Employes			9/ x	
State, County & Municipal Employees	x			
Steelworkers	x			
Teachers			x	
Teamsters (Ind.)			x	
Telephone Unions, Alliance (Ind.)	x			
Textile Workers-TWUA	x			
Textile Workers-UTW	x			
Transit Union	x			
Transport Workers			x	
Typographical			9/ x	
Upholsterers			7/ x	
Utility Workers	x			
Woodworkers			5/7/ x	

1/ All national unions not identified by (Ind.) are affiliated with the AFL-CIO. The full name of each union is listed in an appendix to this study.

2/ Source: Bureau of Labor Statistics' Directory of National and International Labor Unions in the United States, 1963, Bulletin No. 1395.

3/ Branches (which are considered to be intermediate bodies for this study) cast unit votes in a membership referendum; each branch, regardless of size, has one vote.

4/ Locals cast unit votes in a membership referendum; the number of unit votes a local casts is based on its membership size.

5/ A referendum is required following a delegate vote at convention if requested by a prescribed number of locals.

6/ Dues and certain other provisions can only be amended by convention vote.

7/ Certain constitutional provisions can only be amended by one of the methods indicated.

8/ Convention-passed amendments of dues and certain other provisions must be submitted to a membership referendum.

9/ The union's "constitution" can only be amended by one of the methods indicated, while the "bylaws" and other sections of the union's governing document can be amended by either of the two methods indicated.

empowered union executive boards to make such interim constitutional changes as were necessary to carry out the Act's election provisions. A number of constitutions were, in fact, amended by executive board action during the period immediately following the passage of the LMRDA.

Delegate Vote at Convention

In all, 65 of the 73 unions studied can amend their constitution by delegate vote at convention. Thirty-two of these 65 unions, including the Musicians' union, can amend their constitution only by delegate vote at convention; the other 33 unions can amend their constitution either by delegate vote at convention or by a membership referendum. Thus, only 8 organizations do not provide for constitutional changes to be decided by a vote of the convention delegates.

In a third of the 33 organizations that can amend their constitution by either delegate vote or referendum, a referendum vote on proposed amendments is specifically allowed only between conventions. The constitutions of these organizations usually are silent on precisely when a referendum may be held between conventions, but some constitutions specify time limits. For example, the Barbers allow a referendum vote on proposed amendments only during those years when there is no convention, which is normally held every 5 years in the month of September; thus, no proposed changes in the constitution may be put to a membership referendum within 9 months of an upcoming convention.

Membership Referendum

Forty-one of the 73 national unions studied can vote on proposed constitutional amendments by use of a membership referendum. Only one national, the Actors and Artistes, uses this method exclusively; the other 40 use a referendum as an alternative to, or in conjunction with, delegate voting at convention. The extent to which particular organizations have actually used one alternative method or the other in adopting constitutional amendments is a matter not within the scope of this study.

In addition to the 33 national unions mentioned above which can amend their constitutions by a membership referendum as an alternative to a vote of the convention delegates, there are 7 unions which require such convention action to be affirmed by a membership referendum before the proposed changes are adopted. These 7 unions and the Actors and Artistes are the only organizations which prescribe mandatory membership votes on proposed constitutional amendments.

The constitutions of the organizations which provide for a membership referendum usually require that proposed amendments be endorsed by a certain percentage or number of locals or members before a referendum is held. The intent of these requirements is to save the national from the expense of conducting a referendum vote on proposed amendments that have little chance of being adopted. One organization, the Railway Carmen, goes so far as to provide that if a proposed amendment is defeated in a referendum vote, the local lodges proposing the amendment must bear the expense of conducting the referendum, whereas if the amendment is adopted, the national union bears the expense.

The vast majority of the unions (37 of the 41) which may use a membership referendum to amend their constitution employ a direct referendum. Under a direct referendum the proposed amendment is submitted to all members of the national union, with the local union acting as the vehicle for conducting the voting among the members and reporting the numerical results back to the national; the acceptance or rejection of the amendment is determined by the total vote of all members.

The other 4 unions conduct a membership referendum by using a unit vote system. The Electrical Workers-IUE and Electrical Workers-UE (Ind.) both use a unit vote system that allows all locals voting representation proportionately equal to their size. 5/

The unit votes cast by Industrial Workers' locals are weighted so that large locals have proportionately less voting power than the smaller locals. This results from the following voting procedure: Each local of the Industrial Workers votes for or against a proposed amendment, depending on the consensus of the membership. The local's unit vote is then weighted according to a formula by which locals get 1 vote for the first 100 members or less, 1 additional vote for each of the next 2 increments of 200 members or major fraction thereof, and 1 additional vote for each additional 300 members or major fraction thereof. Consequently, locals with a large membership are proportionately underrepresented relative to smaller locals. The Actors and Artistes also use a unit vote system that underrepresents members of larger

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5/ The Packinghouse, Food and Allied Workers also use a proportionate unit vote, but a referendum is only used to act on certain convention-passed amendments, including dues amendments.

"branches." 6/ Each branch casts 1 vote for or against a proposed amendment, depending on the consensus of the branch membership. Therefore, larger branches have proportionately less voting strength compared with smaller branches.

Amending Dues Provisions

Fifty-six of the 73 unions in this study, representing about 85 percent of the total members, establish a local dues level in their national constitution. This provision usually takes the form of a minimum requirement which is sufficient to cover the local's per capita financial obligation to the national. Any of the other 17 unions apparently may establish a level of dues by amending their constitutions to include such a provision, since none of the constitutions preclude the national union from taking such action. Therefore, these 17 unions have been included in the analysis.

Only 3 of the unions studied cannot vote on dues amendments by the same methods used to vote on other constitutional amendments. The Mine, Mill and Smelter Workers (Ind.) and the Packinghouse, Food and Allied Workers must submit convention-passed amendments of dues and certain other provisions to a membership referendum for final approval. These 2 unions adopt other constitutional amendments only by delegate vote at convention. On the other hand, the Industrial Workers can change dues and initiation fees only by convention action, although they can amend other constitutional provisions either by convention action or by a membership referendum. Thus, there does not

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6/ The term "branches" as used in this study refers to the 8 organizations directly affiliated with the Actors and Artistes (e.g., Screen Actors Guild, Inc.).

seem to be any clear pattern of the way in which unions modify the normal methods of amending their constitutions to handle dues amendments. The fact that only 3 of the 73 unions studied impose special voting methods for enacting dues amendments indicates that most unions do not consider that dues amendments warrant special voting procedures. 7/

Size of Vote Required to Amend National Constitution

A simple majority vote is sufficient to carry amendments in 33 of the 65 unions which can amend their constitutions by delegate vote at convention. Some of these 33 unions do not specify that a simple majority is required but, instead, refer to either Robert's Rules of Order or Cushing's Manual of Parliamentary Practice as the authority on procedural matters where the constitution is silent. Both of these authorities specify that a simple majority vote is sufficient to amend.

Eighteen of the 65 unions which can amend their constitution by convention action require a two-thirds or greater vote to adopt amendments. Five other unions vary the majority required to amend by delegate vote at convention. For example, the Clothing Workers require only a simple majority to adopt an amendment proposed by the national executive board, but a two-thirds vote to carry an amendment proposed by a local union, and the Ladies Garment Workers require a two-thirds vote to amend per capita tax provisions, but a simple majority to amend other provisions. The 9 remaining unions of the 65 which can adopt constitutional amendments by delegate vote at the convention did not specify the size of the vote required to amend.

7/ The Chemical Workers also impose special dues amendment requirements in that they require a two-thirds vote of the convention delegates for enacting regular amendments, while dues and certain other financial amendments require only a simple majority.

A simple majority vote was sufficient to amend the constitutions of 30 of the 41 unions which can use a membership referendum to amend their constitutions. Again, some of these 30 unions specified only that Robert's Rules or Cushing's Manual was to be followed where the constitution is silent, and both of these authorities specify that a simple majority is sufficient to amend. Only 5 of the 41 unions which provide for a membership referendum require a two-thirds vote to carry amendments; the 6 remaining unions were silent on the size of the vote required.

III. Local Union Delegate Representation at National Union Conventions

The dues increase amendment adopted by the Musicians at their 1963 convention, which touched off the legal controversy that was ultimately settled by the Supreme Court, was adopted by a roll call vote margin of 44,326 votes after several voice votes on the amendment were inconclusive. The contrast in the outcome of the voice and roll call voting resulted from the difference between the delegate representation (number of delegates per local) and the voting representation (number of roll call votes per local) allowed Musicians' locals. In the Musicians' union each local is entitled to 1 delegate per 100 members or major fraction thereof, but not more than 3 delegates per local. Under this formula a 300-member local has as many delegates (and consequently, as many voice votes) as a 3,000-member local; however, on a roll call, each Musicians' local casts as many votes as there are members in the local, so that a 3,000-member local casts 10 times as many roll call votes as the 300-member local.

Many other national unions also apportion voting representation on a different basis than delegate representation. Therefore, a full understanding of local union convention representation requires an examination of both the delegate and the voting representation formulas followed by the national unions. This section of the study describes the delegate representation formulas applied by the various national unions to their local affiliates, and the following section of the study compares the proportionate voice and roll call voting representation afforded to the locals.

The national unions included in this study use 2 basic methods of determining local union convention delegate representation: (1) each local is allowed to send the same number of delegates regardless of its membership size, or (2) the number of delegates is based on the size of the local. The vast majority of organizations (60 of the 73) base the number of delegates on membership size. The unions that use each of these 2 basic methods can be identified from Table 3. Twenty-one of the 73 unions studied allow intermediate bodies to send voting delegates to the national union convention. These 21 unions are also identified in Table 3.

The constitutions of 4 independent unions, Mine Workers; District 50-UMW; Mine, Mill and Smelter Workers; and Longshoremen and Warehousemen, do not specify the number of delegates which their local affiliates may send to the convention, and apparently even locals of the same size affiliated with any of these organizations may be represented by varying numbers of delegates. The constitutions of these 4 organizations do, however, specify voting representation formulas for their local affiliates, as discussed in the following section of this study.

TABLE 3
Local Union Delegate Representation at National Union Conventions

National union 1/	Same number of delegates per local (number)	Number of delegates based on size of local; larger locals are allowed proportionately: More delegates	Equal number of delegates	Fewer delegates	No provision for specific number of delegates
Constitutions with provisions	8	2	17	41	4
Number of members (millions) 2/	1.1	1.6	3.4	8.9	.6
As percent of total studied	7%	10%	22%	57%	4%
Actors & Artistes 3/ 4/	-	-	-	-	-
Automobile Workers				5/ x	
Bakery & Confectionery Workers				x	
Bakery Workers (Ind.)				x	
Barbers			x		
Boilermakers 3/	7/ 1-7				
Bookbinders				x	
Brewery Workers				6/ x	
Bricklayers				x	
Building Service Employees			x		
Carpenters				x	
Chemical Workers 3/				x	
Clothing Workers 3/				x	
Communications Workers				x	
District 50-UMW (Ind.)					x
Electrical Workers-IBEW				x	
Electrical Workers-IUE 3/				x	
Electrical Workers-UE (Ind.) 3/				x	
Engineers, Operating			x		
Firemen & Oilers				5/ x	
Garment Workers, Ladies 3/				x	
Glass Bottle Blowers			5/ x		
Glass & Ceramic Workers				x	
Grain Millers			x		
Hod Carriers				x	
Hotel, Restaurant Employees				x	
Industrial Workers				x	
Iron Workers				5/ x	
Laundry Workers (Ind.)				6/ x	
Locomotive Engineers (Ind.)	9/ 1				
Locomotive Firemen	1				
Longshoremen-ILA			x		
Longshoremen & Warehousemen (Ind.)					x
Machinists			x		
Maintenance of Way Employees 3/	9/ 1				
Maritime				10/ x	
Meat Cutters 3/				x	
Mine, Mill & Smelter Workers (Ind.)					x
Mine Workers, United (Ind.)					x
Molders			x		
Musicians				6/ x	
Office Employees				6/ x	
Oil, Chemical & Atomic Workers		x			
Packinghouse, Food & Allied Workers 3/				6/ x	
Painters				x	
Papermakers & Paperworkers			x		
Plasterers			x		
Plumbers 3/				x	
Printing Pressmen				x	
Pulp, Sulphite & Paper Mill Workers				x	
Railroad Trainmen	1				
Railway Carmen	1				
Railway & Steamship Clerks 3/	11/ 1				
Retail Clerks				6/ x	
Retail, Wholesale				6/ x	
Rubber Workers			x		
Seafarers 3/				x	
Sheet Metal Workers 3/			x		
Shoe Workers 3/				x	
Stage Employes 3/				5/ x	
State, County & Municipal Employees 3/				6/ x	
Steelworkers			x		
Teachers 3/				x	
Teamsters (Ind.)		x			
Telephone Unions, Alliance (Ind.)	7/ 1-3				
Textile Workers-TWUA 3/				x	
Textile Workers-UTW 3/			x		
Transit Union				x	
Transport Workers			x		
Typographical				x	
Upholsterers			x		
Utility Workers			x		
Woodworkers 3/				x	

1/ All national unions not identified by (Ind.) are affiliated with the AFL-CIO. The full name of each union is listed in an appendix to this study.

2/ Source: Bureau of Labor Statistics' Directory of National and International Labor Unions in the United States, 1953, Bulletin No. 1395.

3/ Voting delegates sent by intermediate bodies.

4/ Locals do not send delegates to national conventions; this is done by the branches which are considered to be intermediate bodies for this study.

5/ There are two classes of locals with similar, but not identical, representation formulas.

6/ Larger locals are allowed proportionately fewer delegates because the constitution limits the maximum number of delegates per local. Absent this limitation, the delegate representation formulas are such that all locals are allowed a proportionately equal number of delegates.

7/ A local, regardless of its size, apparently has the choice of sending the indicated variable number of delegates.

8/ All "divisions" (locals) with 200 or more members are entitled to one delegate; "divisions" with less than 200 members are grouped with not more than two other "divisions" to obtain a combined membership of 200.

9/ Delegate representation for certain types of locals is different from that shown.

10/ Delegate representation is based on registered crew size of vessels, with larger crews allowed proportionately fewer delegates. A minimum of one delegate is allowed from each port branch, and one delegate is allowed from each affiliated labor organization.

11/ Lodges with less than 150 members are not entitled to their own delegate; instead they participate in electing "delegates-at-large."

Same Number of Delegates per Local

Eight national unions specify that each local affiliate is entitled to the same number of delegates regardless of membership size. 8/ Six of these 8 organizations are railroad unions; these permit only 1 delegate per local. The Boilermakers and the Alliance of Telephone Unions (Ind.) allow each local the choice of sending a variable, but limited, number of delegates.

One reason why so few national unions provide for the same number of delegates from each local, regardless of size, may be that this method can grossly underrepresent larger locals. For example, if a local union consisting of 100 members has the same number of delegates as a local of 1,000 members, then each member of the smaller local would have proportionately 10 times the representation of a member of the larger local. It is not surprising, therefore, that unions generally adhere to the concept of a positive relationship between the system of representation and the size of the constituency.

Number of Delegates Based on Size of Local

In 60 of the 73 unions studied, the number of delegates each local union may send to the convention is based on the size of the local's membership. These 60 unions may be further divided into 3 categories based on the proportionate delegate representation granted to larger locals as against smaller locals: (1) larger locals are allowed a proportionately equal number of delegates per member in 17 unions, (2) larger locals are allowed proportionately

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8/ The Actors and Artistes permit each branch to send 3 delegates to the national convention, but the branches are classified for purposes of this study as intermediate bodies rather than locals, and therefore this union is not included in the 8 nationals mentioned above.

fewer delegates per member in 41 unions, and (3) larger locals are allowed proportionately more delegates per member in 2 unions. 9/

Seventeen unions provide that the number of delegates from each local union be equally proportional to its membership. This means that larger locals have more delegates than smaller locals, but only in direct relationship to their size. The following provision from the Rubber Workers' constitution is typical: "Each local union having an average membership of one hundred (100) members or less shall be entitled to one delegate and one additional delegate for each additional one hundred (100) members or majority fraction thereof."

Forty-one of the 60 unions which base local delegate representation on local membership size allow larger locals proportionately fewer delegates. The 8 unions cited earlier which provide for the same number of delegates from each local, regardless of size, in effect also allow larger locals proportionately fewer delegates. The primary method of giving larger locals proportionately fewer delegates is by using a representation formula which increases the number of members represented by each delegate as the size of the local union membership increases. An example of this type of formula is found in the Hod Carriers' constitution, which provides that "Each Local Union in good standing shall be entitled to representation as follows: one delegate

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9/ These classifications are based on the general pattern of delegate representation resulting from the constitutional formula. It should be understood that departures from the general representation pattern can occur. For example, in a typical representation formula where locals are allowed 1 delegate per 100 members or major fraction thereof, a local of 100 members, entitled to 1 delegate, is underrepresented relative to a local of 10 members, also entitled to 1 delegate, and to a local of 151 members, entitled to 2 delegates. However, such disparities between locals of particular sizes are inherent to all delegate representation formulas, and they have been ignored for purposes of categorizing the general pattern of delegate representation produced by the formula.

for 100 members or fewer; two delegates for 101 to 250 members; three delegates for 251 to 500 members; four delegates for 501 to 1,000 members; five delegates for 1,001 to 2,000 members; six delegates for 2,001 to 5,000 members; seven delegates for 5,001 or more members." An example of a much less regressive delegate formula is found in the Plumbers' constitution which provides for 1 delegate from locals with at least 20 members and 1 delegate for each additional 100 members.

However, in 9 of these 41 unions, larger locals are allowed proportionately fewer delegates than smaller locals because the constitution places a limit on the maximum number of delegates per local, regardless of size. Without this limitation, the delegate representation formulas are such that all locals are allowed a proportionately equal number. A typical example of this type of representation formula is contained in the Brewery Workers' constitution, which provides that "Each Local Union shall be entitled to one delegate for each 100 members or fraction thereof, up to a maximum of ten (10) delegates for any one Local Union." Consequently, locals with more than 1,000 members receive proportionately fewer delegates; the largest local, with approximately 5,800 members, is substantially underrepresented in terms of delegates. The Musicians' union, which allows local unions 1 delegate per 100 members, but not more than 3 delegates, also falls into this category.

It is interesting to note that although over one-third of the unions studied (25 of the 73) so limit the number of delegates per local, this limitation has the effect of changing from equal to less than equal the proportionate delegate representation of the larger locals in only 9 unions. The other 16 unions already allow the larger locals proportionately fewer delegates, and the

effect of limiting the maximum number of delegates per local for most of these unions is to further underrepresent members of larger locals in terms of delegates.

In only 2 nationals is there the possibility of larger locals having proportionately more delegate representation. The basis of delegate representation in these 2 unions is illustrated by the Oil, Chemical and Atomic Workers' constitution which provides "Three (3) delegates for the first 500 members or fraction thereof" and "One (1) delegate for each additional 100 members or major fraction thereof." Under this formula, each delegate from a 500 member local represents 166-2/3 members while each delegate from a 1,000 member local represents only 125 members. The Teamsters' delegate representation formula is in principle the same as the formula illustrated above, but large Teamster's locals are even less overrepresented in delegates.

Looking at local union delegate representation in an overall sense, it is clear that most nationals limit the delegate representation of larger locals—either by means of a regressive delegate representation formula, or by means of a fixed limit on the number of delegates per local. The reason for this is fairly obvious. Considering the enormous differences in membership between the largest and smallest locals in most organizations, 10/ a national union must compromise between 2 desirable but conflicting objectives. On

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10/ As an indication of these enormous size differences, recent convention proceedings disclose that the smallest local of each of the following national unions had 20 or fewer members, while the largest local had the number of members shown (rounded to the nearest 100): Brewery Workers—5,800; Communications Workers—5,900; Electrical Workers-IBEW—30,100; Ladies Garment Workers—24,700; Hotel, Restaurant Employees—26,900; Maintenance of Way Employees—1,100; and Musicians—28,400 members.

the one hand, the union as a democratic political institution may wish to provide proportionately equal convention representation for all of its locals; to accomplish this, it is necessary to allow even the smallest local to have at least 1 delegate and to allow larger locals to have a great number of delegates. On the other hand, the union may wish to keep the number of delegates down because of the expense and practical problems involved in holding a very large convention, and therefore limit the number of delegates from large locals. Of course, there may be other reasons why certain organizations afford large locals proportionately less delegate representation; for instance, this may be a device to check the power of a few very large locals that might otherwise dominate the convention.

IV. Local Union Voting Representation at National Union Conventions

This section examines local union voting representation under the 2 methods of convention voting, namely, (1) voting by voice or show of hand, and (2) roll call voting. Comparisons of proportional voting representation are all based on the assumption that locals send their full number of delegates to the convention.

The method of convention voting can have a significant effect on proportional voting representation, and for this reason voice or hand voting and roll call voting are treated separately. When voting by voice or show of hand, each delegate obviously casts only 1 vote. Therefore, a local's voice or hand voting representation is determined by its convention delegate representation. When delegates vote by roll call, however, they can cast more than 1 vote when permitted by the voting formula in the national constitution. Therefore,

when a roll call is taken, a large local having only a few delegates may cast many votes, depending upon the voting representation formula in the national constitution.

Voice or Show of Hand

When convention delegates vote by voice or show of hand, each delegate casts only 1 vote regardless of the number of members he represents. But, while each delegate casts an equal number of voice votes, each local does not necessarily get a vote equally proportionate to its size. Proportionately equal voting representation is accorded to locals affiliated with the 17 national unions identified in the previous section of the study as having delegate representation formulas based on the membership size of the local, which provide that the number of convention delegates allowed each local is proportionately equal to its membership. The 17 unions so identified in Table 3 are the same organizations identified in Table 4 as having proportionately equal voting representation when local delegates vote by voice or show of hand.

In 51 of the 73 national unions studied, locals have disproportionate voting representation when delegates vote by voice or show of hand. See Table 4. These 51 unions account for 74 percent of the total membership of the unions studied. In all but 2 of the 51 unions, larger locals have proportionately less voice voting representation than smaller locals. This follows from the fact that these 49 national unions limit larger locals to proportionately fewer delegates and hence proportionately fewer voice votes. The other 2 nationals grant larger locals proportionately more delegates than smaller locals

TABLE 4
Local Union Voting Representation at National Union Conventions 1/

National union 2/	If delegates vote by show of hand or voice, locals cast proportionately:		If delegates vote by roll call, locals cast proportionately:	
	Equal votes	Unequal votes 3/	Equal votes	Unequal votes 3/
Constitutions with provisions	17	51	44	28
Number of members (millions) 4/	3.4	11.6	8.6	7.0
As percent of total studied	22%	74%	54%	45%
Actors & Artistes 5/	-	-	-	-
Automobile Workers		L	x	
Bakery & Confectionery Workers		L	x	
Bakery Workers (Ind.)		L	x	
Barbers	x		x	
Boilermakers		L		L
Bookbinders		L	x	
Brewery Workers		L	x	
Bricklayers		L		L
Building Service Employees	x		x	
Carpenters		L		L
Chemical Workers		L		L
Clothing Workers		L		L
Communications Workers		L	x	
District 50-UMW (Ind.)	(6/)	(6/)	x	
Electrical Workers-IBEW		L	x	
Electrical Workers-IUE		L	x	
Electrical Workers-UE (Ind.)		L	x	
Engineers, Operating	x		x	
Firemen & Oilers		L	x	
Garment Workers, Ladies		L		L
Glass Bottle Blowers	x		x	
Glass & Ceramic Workers		L		L
Grain Millers	x		x	
Hod Carriers		L		L
Hotel, Restaurant Employees		L		L
Industrial Workers		L		L
Iron Workers		L		L
Laundry Workers (Ind.)		L	x	
Locomotive Engineers (Ind.)		7/ L		7/ L
Locomotive Firemen		L		L
Longshoremen-ILA	x		x	
Longshoremen & Warehousemen (Ind.)	(6/)	(6/)	x	
Machinists	x		x	
Maintenance of Way Employees		L	x	
Maritime		8/ L		8/ L
Meat Cutters		L		L
Mine, Mill & Smelter Workers (Ind.)	(6/)	(6/)	x	
Mine Workers, United (Ind.)	(6/)	(6/)	x	
Molders	x		x	
Musicians		L	x	
Office Employees		L	x	
Oil, Chemical & Atomic Workers		M	x	
Packinghouse, Food & Allied Workers		L	x	
Painters		L		L
Papermakers & Paperworkers	x		x	
Plasterers	x		x	
Plumbers		L		L
Printing Pressmen		L		L
Pulp, Sulphite & Paper Mill Workers		L	x	
Railroad Trainmen		L		L
Railway Carmen		L	x	
Railway & Steamship Clerks		L	x	
Retail Clerks		L		L
Retail, Wholesale		L	x	
Rubber Workers	x		x	
Seafarers		L		L
Sheet Metal Workers	x		x	
Shoe Workers		L	x	
Stage Employes		L		L
State, County & Municipal Employees		L		L
Steelworkers	x		x	
Teachers		L		L
Teamsters (Ind.)		M		M
Telephone Unions, Alliance (Ind.)		L	x	
Textile Workers-TWUA		L		L
Textile Workers-UTW	x		x	
Transit Union		L		L
Transport Workers	x		x	
Typographical		L		L
Upholsterers	x		x	
Utility Workers	x		x	
Woodworkers		L	x	

1/ In determining voting representation, each national union has been categorized according to the general pattern of representation prescribed by the national constitution. It has been assumed that each local sends the full number of delegates allowed by the constitution, and that a local's voting strength is equally divided among its delegates. It also has been assumed that each union permits a roll call vote.

2/ All national unions not identified by (Ind.) are affiliated with the AFL-CIO. The full name of each union is listed in an appendix to this study.

3/ The letters stand for the following: L stands for proportionately less than equal and M stands for proportionately more than equal voting representation for larger locals relative to smaller locals.

4/ Source: Bureau of Labor Statistics' Directory of National and International Labor Unions in the United States, 1963, Bulletin No. 1395.

5/ Locals do not send delegates to national union conventions; this is done by the branches which are considered to be intermediate bodies for this study.

6/ Local union voice voting is indeterminate because the constitution does not provide for a specific number of delegates.

7/ All "divisions" (locals) with 200 or more members are entitled to one delegate; "divisions" with less than 200 members are grouped with not more than two other "divisions" to obtain a combined membership of 200. Large "divisions" have proportionately less than equal roll call voting representation because "divisions" that are grouped together have one vote for each division while delegates from "divisions" with 200 or more members have one vote per 200 members. Most "divisions" have less than 200 members.

8/ Delegate representation (which is the same as voice voting representation) based on registered crew size of vessels, with larger crews allowed proportionately fewer delegates, and hence less voice voting representation. A minimum of one delegate is allowed from each affiliated labor organization. Each delegate is allowed one vote.

and hence proportionately more voice votes. Examples of the types of constitutional provisions which give rise to disproportionate voice voting representation are discussed in the preceding section of this study dealing with local union delegate representation.

To illustrate the degree to which the largest locals of some nationals are underrepresented in voice voting, the proportionate voice voting strength of the largest and an average size local in selected national unions were compared. This comparison is presented in Table 5. 11/

From the voice vote ratios in Table 5 it can be seen that the degree to which the largest locals of some nationals are underrepresented in voice voting is substantial. Assuming that each local sends its full number of delegates, the largest local in the Musicians' union has only 1/68 the voice voting representation (in proportion to its membership) of an average size local in that union. The largest local of the Hotel, Restaurant Employees has only 1/13 the voice voting representation of an average size local. In 6 other unions the ratios range from 1/10 to 1/4, while in 3 other unions the largest local has 1/3 the voice voting representation of an average size local. In the remaining 3 unions the largest local has about 1/2 the voting strength of an average size local.

The ratios cited above are only a general indication of proportionate voice voting representation. They are based on local membership size at a

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11/ The 14 national unions included in Table 5 were selected from among the 49 organizations which underrepresent larger locals in voice voting solely because local membership data for use in making the comparisons were readily available in recent convention proceedings.

TABLE 5
Comparative Voting Representation for the Largest and for Average Size Locals in Selected National Unions 1/

National union 2/	Average size local 3/	Largest local 4/	Voice vote ratio 5/	Roll call vote ratio 6/
Automobile Workers	840	31,100	1/2	E
Bakery & Confectionery Workers	560	4,000	1/2	E
Brewery Workers	230	5,800	1/8	E
Communications Workers	350	5,900	1/2	E
Electrical Workers-IBEW	460	30,100	1/9	E
Electrical Workers-IUE	540	10,800	1/6	E
Garment Workers, Ladies	970	24,700	1/3	1/3
Hotel, Restaurant Employees	820	26,900	1/13	1/2
Industrial Workers	210	4,400	1/3	1/3
Maintenance of Way Employees	120	1,100	1/10	E
Musicians	420	28,400	1/68	E
Packinghouse, Food & Allied Workers	230	4,200	1/4	E
Pulp, Sulphite & Paper Mill Workers	250	5,000	1/7	E
Stage Employes	60	2,500	1/3	1/3

1/ National unions for which reliable local membership size data could be obtained from recent convention proceedings were selected for analysis. The delegate and voting representation formulas followed by these 14 nationals are generally the same as the formulas followed by the other nationals that underrepresent large locals.

2/ The full name and affiliation of each national union is contained in an appendix to this study.

3/ Source: Calculated from Table 1 by dividing number of members by number of local unions. Figures are rounded to the nearest 10.

4/ Source: Obtained from convention proceedings, 1961 through 1963. Figures are rounded to the nearest 100.

5/ Voice vote ratios indicate the approximate proportionate voice voting representation afforded to the largest local relative to an average size local. The ratio is derived as follows:

$$\frac{\text{average local's membership}}{\text{average local's delegate representation}} \div \frac{\text{largest local's membership}}{\text{largest local's delegate representation}}$$

Local union delegate representation is used in this computation because delegate representation equals voting representation when delegates vote by voice or show of hand. A ratio of 1/3 indicates that the largest local casts proportionately about 1/3 as many voice votes as an average size local.

6/ Roll call vote ratios indicate the approximate proportionate voting representation afforded to the largest local relative to an average size local. The ratio is derived as follows:

$$\frac{\text{average local's membership}}{\text{average local's convention votes}} \div \frac{\text{largest local's membership}}{\text{largest local's convention votes}}$$

A ratio of 1/3 indicates that the largest local casts proportionately about 1/3 as many roll call votes as an average size local. The letter "E" indicates that locals have proportionately equal roll call voting representation.

particular point in time, and since these size figures are subject to substantial changes over time, the ratios are also subject to substantial change. Also, the ratio for any particular organization only compares an average size local with the largest size local. Nevertheless, it is obvious that many national unions underrepresent large locals in voice voting and that this underrepresentation is often extreme.

Voice voting by its very nature is inexact since it is often impossible to measure the precise number of delegates voting "for" or "against" a proposal. Also, some unions allow visitors and guests to be seated with the delegates at a convention, and it is obviously difficult to differentiate the voice or hand response of a visitor from that of a delegate. Therefore, minor differences in proportional voice voting representation among different size locals may be blurred, if not obscured, in actual voting. For example, at a convention where the largest local has only 1/2 the proportionate voice voting strength of an average size local as prescribed by the delegate representation formula, the difference in representation may not prove meaningful during an actual voice vote. However, in those organizations with delegate representation formulas which markedly underrepresent the larger locals, it is doubtful that these ameliorating factors are sufficient to equalize proportional voice voting representation in actual practice.

Roll Call

This section examines the voting representation formulas contained in union constitutions and the proportionate voting strength of different size locals during roll call voting. In actual practice, it is unusual for a roll call vote to be taken at a convention. Most proposals are acted on by a voice or hand

vote. However, when controversial matters arise, it is important for delegates to have an opportunity to request a roll call vote—especially where roll call voting tends to equalize the proportionate voting strength of all locals. As mentioned previously, the controversial dues increase amendment to the Musicians' constitution was passed on a roll call vote, after several inconclusive voice votes.

When delegates vote by roll call they are not necessarily limited to 1 vote, but may cast a number of votes as prescribed by the voting formula contained in the national constitution. Therefore, when a roll call is taken a large local with only a few delegates, and consequently only a few voice votes, may cast a large number of votes. Thus, even though the delegate representation formula of a national union does not allow its different size locals proportionately equal delegate or voice voting representation, the voting representation formula may grant all locals proportionately equal voting strength whenever a roll call is taken. Many national unions follow this procedure, and as a result the picture of proportional local union voting representation is significantly different when roll call, rather than voice voting, is examined.

When delegates vote by voice or show of hand, only 17 national unions, containing 22 percent of the membership of the unions studied, allow all locals proportionately equal voting representation. But when delegates vote by roll call, 44 unions, with 54 percent of the members in this study, grant all locals proportionately equal voting representation. See Table 4. An example of a fairly common formula contained in national union constitutions providing all locals with proportionately equal voting representation is "one vote for 100 or fewer members, and one additional vote for each additional 100 members or

majority fraction thereof." Thus, the larger locals cast a number of votes that is proportionately equal to the number of votes cast by smaller locals, i.e., a 100-member local casts 1 vote and a local 10 times that size casts 10 times that number of votes. 12/

Twenty-two of the 49 national unions which underrepresent larger locals in voice voting equalize roll call voting representation. Some equalize roll call representation according to a formula similar to that cited above, whereby a local is granted 1 vote for up to 100 members and 1 additional vote for each additional 100 members. Other unions equalize roll call voting representation more precisely by allocating to each local a number of votes equal to the local's membership. The Musicians' union follows the latter practice.

In voice voting, the largest local of the Musicians' union has only about 1/68 of the voting representation of an average size local in proportion to its membership size. In roll call voting, in contrast, all locals have proportionately equal representation because each local's vote precisely reflects the number of its members. A comparison of the voice vote and roll call vote ratios for other selected national unions is presented in Table 5. Although all of the 14 unions listed have delegate representation formulas which

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12/ As previously noted in the discussion of delegate representation, in categorizing this type of voting formula as one providing all locals with proportionately equal representation, it is understood that the larger locals within each size interval used in the formula are, to be precise, underrepresented. For example, in the formula cited above a local of 150 members, entitled to 1 vote, is underrepresented relative to a local of 100 members, also entitled to 1 vote, and to a local of 151 members, entitled to 2 votes. However, such disparities are inherent to all voting representation formulas which do not reflect a local's exact membership (i.e., 1 vote per member), and they have been ignored for purposes of categorizing the general pattern of voting representation produced by the formula.

allow larger locals proportionately fewer delegates than smaller locals and, consequently, proportionately fewer voice votes, all but 4 of these unions have voting representation formulas which grant all locals proportionately equal voting strength when a roll call is taken. The voting representation formula of the Hotel, Restaurant Employees reduces the degree to which the largest local is underrepresented in roll call as compared to voice voting, but the formulas followed by the other 3 unions leave the proportional representation of the locals unchanged.

Altogether, there are 27 unions which underrepresent larger locals in both roll call voting and voice voting, and 1 union which slightly overrepresents the larger locals. Larger locals receive less than equal roll call voting representation as a result of voting representation formulas of the following type: "One vote for 100 members or less, and one additional vote for an additional 200 members or majority fraction, and thereafter one additional vote for each additional 500 members or majority fraction." This formula and others of its kind obviously result in the larger locals having proportionately fewer votes than the smaller locals, e.g., a 100-member local is entitled to 1 vote or 100 members-per-vote, while an 800-member local is entitled to 3 votes or 267 members-per-vote, and so forth.

However, 5 of the 27 unions lesser the degree of voice voting underrepresentation when a roll call is taken. For example, the Glass and Ceramic Workers allow locals 1 delegate and 1 vote per 100 members for the first 300 members, 1 delegate and 1 vote for the next 200 members, and 1 delegate and 1 vote per 300 members for all over 500 members—with a maximum limit of 8 delegates per local but no maximum limit on the number of votes per local—thus lessening roll call voting underrepresentation for large (over 1700 members) locals.

From the foregoing it can be seen that it is a fairly common practice for union constitutions to specify a roll call voting formula that is different than their delegate representation formula. More than half of the unions which do not provide for proportionately equal delegate or voice voting representation provide for equal or more nearly equal voting representation when a roll call is taken.

Requesting Roll Call Votes

Forty-four of the 73 union constitutions studied specify when roll call votes must be taken at the convention. See Table 6. Twenty-two of these 44 constitutions require a majority vote of the delegates in order to call for a roll call vote, usually citing Robert's Rules or Cushing's Manual as parliamentary authority.

The other 22 unions have adopted special constitutional provisions dealing with the subject in order that a fewer number of delegates than the usual majority can demand a roll call vote. The number required ranges from 1/3 of the delegates down to only 1 delegate. The Seafarers require a mandatory roll call vote on proposed constitutional amendments, and the Glass and Ceramic Workers must use a roll call vote to decide "All important questions before the convention . . ." In 19 of these 22 national unions the use of a roll call provides for more equally proportionate representation than voice voting for locals of different membership size. Thus, it appears that these unions have made it easier to request a roll call vote in order that all locals may have proportionately equal representation when voting on controversial matters.

TABLE 6
Local Union Delegate Voting at National Union Conventions 1/

National union 2/	On roll call vote, delegates cast: 3/		Roll call taken when requested by: 4/
	Unweighted votes	Weighted votes	
Constitutions with provisions	33	39	44
Number of members (millions) 5/	7.1	8.5	8.6
As percent of total studied	45%	54%	55%
Actors & Artistes 6/	-	-	-
Automobile Workers		x	
Bakery & Confectionery Workers		x	
Bakery Workers (Ind.)		x	
Barbers	x		(7/)
Boilermakers		x	10% D
Bookbinders		x	20 D
Brewery Workers		8/ x	30% D
Bricklayers	9/ x		33% D
Building Service Employees		8/ x	
Carpenters	x		
Chemical Workers	9/ x		
Clothing Workers	x		
Communications Workers		8/ x	
District 50-UMW (Ind.)		x	30% D
Electrical Workers-IBEW		8/ x	(7/)
Electrical Workers-IUE		x	15% D
Electrical Workers-UE (Ind.)		x	
Engineers, Operating	9/ x		(7/)
Firemen & Oilers		x	10% V
Garment Workers, Ladies	x		
Glass Bottle Blowers	x		(7/)
Glass & Ceramic Workers		x	(10/)
Grain Millers		x	(7/)
Hod Carriers	x		(7/)
Hotel, Restaurant Employees		x	25% D
Industrial Workers	9/ x		
Iron Workers	x		
Laundry Workers (Ind.)		8/ x	(7/)
Locomotive Engineers (Ind.)		x	50 D
Locomotive Firemen	x		100 D
Longshoremen-ILA	9/ x		(7/)
Longshoremen & Warehousemen (Ind.)		x	
Machinists		x	(7/)
Maintenance of Way Employees		8/ x	
Maritime	11/ x		
Meat Cutters	x		
Mine, Mill & Smelter Workers (Ind.)		x	
Mine Workers, United (Ind.)		x	30% D
Molders	x		
Musicians		8/ x	10 D or 5 L
Office Employees		x	(7/)
Oil, Chemical & Atomic Workers		8/ x	20% D
Packinghouse, Food & Allied Workers		x	
Painters	x		(7/)
Papermakers & Paperworkers	9/ x		(7/)
Plasterers	x		
Plumbers	x		(7/)
Printing Pressmen	9/ x		
Pulp, Sulphite & Paper Mill Workers		x	15 D
Railroad Trainmen	x		33% D
Railway Carmen		x	(7/)
Railway & Steamship Clerks		x	(7/)
Retail Clerks	x		(7/)
Retail, Wholesale		8/ x	D = 25% M
Rubber Workers	9/ x		(7/)
Seafarers	9/ x		(12/)
Sheet Metal Workers	9/ x		
Shoe Workers		x	
Stage Employes	9/ x		(7/)
State, County & Municipal Employees		x	
Steelworkers		x	30% D
Teachers	9/ x		(7/)
Teamsters (Ind.)	x		
Telephone Unions, Alliance (Ind.)		8/ x	1 D
Textile Workers-TWUA	x		
Textile Workers-UTW	x		51% D
Transit Union	x		(7/)
Transport Workers		x	
Typographical	x		
Upholsterers		8/ x	(7/)
Utility Workers		8/ x	30% D
Woodworkers		8/ x	30% D

1/ In determining the number of votes each delegate casts, each national union has been categorized according to the general pattern of representation prescribed by the national constitution. It has been assumed that each local sends the full number of delegates allowed by the constitution, and that a local's voting strength is equally divided among its delegates. It also has been assumed that each union permits a roll call vote.

2/ All national unions not identified by (Ind.) are affiliated with the AFL-CIO. The full name of each union is listed in an appendix to this study.

3/ The term "unweighted vote" as used in this study means that each delegate casts one vote regardless of the size local he represents. The term "weighted votes," on the other hand, means that delegates cast more than one vote. Only roll call voting strength is shown because when voting by voice or show of hand, each delegate casts one vote.

4/ The letters stand for the following: D = delegates, L = locals, M = members, and V = voting strength of locals.

5/ Source: Bureau of Labor Statistics' Directory of National and International Labor Unions in the United States, 1963, Bulletin No. 1395.

6/ Locals do not send delegates to national union conventions; this is done by the branches which are considered to be intermediate bodies for this study.

7/ The constitution does not specify how a roll call vote can be requested, but provides that Robert's Rules of Order or Cushing's Manual of Parliamentary Practice is the procedural authority where the constitution is silent. Both of these authorities specify that a majority vote is sufficient to order a roll call.

8/ Each delegate casts a vote weighted according to local per capita membership.

9/ Delegates may cast a weighted vote if their local sends less than its full number of delegates.

10/ The constitution specifies that "all important questions before the convention shall be decided by roll call vote."

11/ Most convention delegates do not represent local unions; delegate representation is primarily based on registered crew size of vessels and membership in port branches.

12/ A roll call vote is required to amend the constitution.

V. Delegate Voting at National Union Conventions

In ruling on the legality of the Musicians' 1963 dues increase amendment, the Supreme Court held that the LMRDA does not prohibit weighted voting on dues increases. The court's decision, in effect, endorsed a system of convention voting that is fairly common among national unions.

As previously emphasized, when convention delegates vote by roll call, each delegate is not necessarily limited to 1 vote, as in voice or show-of-hand voting. The number of roll call votes a delegate can cast is limited only by the voting representation formula prescribed in the national union's constitution. This section of the study examines the voting formulas of the national unions to determine how many organizations permit delegates to cast more than 1 roll call vote—referred to as weighted voting—and how many nationals allow only 1 roll call vote per delegate—referred to as unweighted voting.

Thus, this section of the study is concerned with the number of convention votes per delegate, while the preceding section was concerned with the number of convention votes per local. This distinction is illustrated by the following example: Assume that the delegate representation formula of a national union allows the locals 1 delegate for the first 100 members, 1 additional delegate for the next 200 members, and 1 additional delegate for each succeeding 300 members, but that the voting representation formula entitles the locals to 1 vote for each 100 members; then, a local with 600 members would be allowed 3 delegates, but 6 roll call votes, while a local with 300 members would be allowed 2 delegates, but 3 roll call votes. Both the 600- and 300-member locals would be entitled to a number of roll call votes that

is proportionately equal to their memberships, but each delegate from the 600-man local would cast 2 votes, while each delegate from the 300-man local would cast 1-1/2 votes. Thus, the delegates would cast an unequal number of votes, even though the number of votes allocated to the locals is proportionately equal to their size. In this illustration, the delegates would cast a weighted vote.

Thirty-nine of the unions included in this study weight the votes cast by local delegates when a roll call vote is taken. See Table 6. The effect of weighting delegate votes in all of these 39 unions is to equalize, or more nearly equalize, each local's proportionate roll call voting representation in comparison to its voice voting, or delegate representation.

In 22 of the 39 unions large locals are underrepresented in voice voting, but weighting delegate votes affords all locals proportionately equal roll call voting representation. In another union where large locals are overrepresented in voice voting, weighted delegate voting equalizes roll call voting representation for all locals. In 5 other unions, weighting of delegate votes has the effect of making the underrepresentation of large locals less pronounced in roll call voting than in voice voting. In the 4 unions whose voice voting (delegate) representation cannot be determined from the constitution, delegate votes are weighted to afford all locals proportionately equal roll call voting representation.

Seven of the 39 unions afford all locals equally proportionate voice voting (delegate) representation but weight delegate votes to achieve more precise proportional roll call voting equality. Three of the 7 weight roll call votes according to each local's exact membership, giving locals 1 vote per

member. The other 4 unions use a voting formula that more precisely reflects each local's membership than does the voice voting formula. For example, Machinists' locals are allowed 1 delegate (1 voice vote) for each 200 members or major fraction thereof, but 1 roll call vote for each 100 members or major fraction thereof; thus, a 270-member Machinists' local is allowed only 1 voice vote but 3 roll call votes. The roll call voting formula gives greater equality since the interval by which votes are allotted more closely approaches 1 vote per member. 13/

In all, 13 of the 39 unions which weight local delegate votes weight the votes to reflect the actual membership of each local.

The degree to which unions weight delegate votes to achieve proportionate voting equality for all locals is directly related to the degree of disproportionate delegate representation. Actually, the degree of weighting is the inverse of the voice vote ratio. See Table 5. For example, the largest local of the Musicians' union has only 1/68 of the proportionate delegate representation of an average size local, but on a roll call, delegates from the largest local cast 68 times as many votes as delegates from an average size local, so that all locals have equally proportionate roll call voting representation. Likewise, delegates from the largest Brewery Workers' local cast 8 times as many roll call votes as the delegates from an average size local, thereby equalizing the proportionate roll call voting strength of the largest and average size locals.

13/ See footnote 12 on page 25.

Thirty-three of the unions studied do not weight delegate votes. Ten of these unions already have proportionately equal delegate representation and hence have proportionately equal, although not precisely equal, roll call voting representation since each delegate casts 1 vote. Larger locals of 22 of the remaining 23 national unions are underrepresented in roll call voting because the larger locals are allowed proportionately fewer delegates and each delegate is allowed only 1 vote, an unweighted vote. In the Teamsters' union, larger locals are slightly overrepresented in roll call voting as the result of larger locals having proportionately more delegate representation. Thus, of the 51 unions included in this study that do not afford all locals proportionately equal delegate representation, more than half offset, to some degree, this disproportionate representation by weighting delegate roll call votes.

In this study it has been assumed that locals send their full number of delegates to the convention. Actually, all locals do not necessarily send their full number of delegates, but in order to classify local voting representation it was necessary to make this assumption. If a local, for reasons of economy or for other reasons, sends less than its full number of delegates to the convention, those delegates actually sent may be entitled to cast the full voting strength of the local. For example, a local entitled to 2 delegates and 2 votes might send only a single delegate who would cast both of the local's votes. In other words, the roll call votes are associated with the local's delegation and not with each individual delegate. At least 12 of the 33 national unions which are classified as not weighting delegate votes allow this practice. These 12 unions are identified by a footnote in Table 6. But in some other unions it is quite clear that a delegate cannot cast more than 1 vote. For example, the Carpenters' constitution specifies that "Each delegate shall be entitled to one vote; no proxy representation shall be allowed."

VI. Summary and Conclusions

The 73 national unions included in this study can vote on proposed constitutional amendments by one or more of the following methods: (a) by delegate vote at convention, (b) by membership referendum, and (c) by delegate vote at convention followed by a membership referendum. In all, 65 of the 73 national unions can amend their constitution by a delegate vote at convention, and a large number of these unions also can amend their constitution by means of a membership referendum. Almost all of the 73 national unions vote on proposed dues amendments by the same method they use to act on other proposed amendments, generally by convention action. However, 3 of the 73 unions act on dues proposals differently; 2 unions require referendum approval of convention-passed dues amendments, whereas other amendments may be adopted by convention action, and another union requires convention approval of dues amendments but permits either convention or referendum approval of other amendments.

The national unions in this study use 1 of 2 basic methods of apportioning convention delegates among their affiliated locals: (1) each local is entitled to the same number of delegates, usually 1 delegate per local, regardless of local membership size, or (2) the number of delegates to which a local is entitled is based on local membership size. Eight national unions follow the first method and 60 the second. Forty-one of the 60 allow smaller locals proportionately more delegates than larger locals, either by following a regressive representation formula or by limiting the maximum number of delegates per local. Four other national unions do not specify a delegate representation formula in their constitutions, and locals of 1 union are not represented at the national convention.

Local union voting representation is strongly affected by the method of delegate voting employed in convention. When delegates vote by voice or show of hand, the most common method, local voting representation is determined by local delegate representation since each delegate can cast only 1 vote. The voice voting representation allowed to locals of the 73 national unions studied is such that larger locals are proportionately underrepresented in 49 unions, overrepresented in 2 unions, and equally represented in 17 unions. In 1 union, locals do not send delegates to the national convention, and delegate representation cannot be determined from the constitutions of 4 other unions.

When delegates vote by roll call, 44 of the 73 unions afford all locals proportionately equal voting representation, 27 unions underrepresent large locals, and 1 national overrepresents large locals.

Thus, while the overwhelming majority of the unions studied proportionately underrepresent large locals in voice voting, a substantial majority of the nationals studied afford all locals proportionately equal roll call voting representation.

In order to equalize proportional roll call voting representation when voice voting representation is disproportionate, many national unions weight delegate roll call votes. Altogether, 39 of the 73 unions studied weight delegate votes. In all of these 39 unions the effect of weighting delegate votes is to equalize, or more nearly equalize, proportional roll call voting representation in comparison to voice voting representation.

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In sum, convention voting procedures, and in particular the weighting of delegate votes, seem to reflect a balancing of several considerations. On the one hand, the expense of sending delegates and the need to keep conventions to a manageable size argue for limiting the total number of delegates. If the smallest locals are to have their individual delegates, the total number of delegates can be limited only by giving large locals a less than proportionate number. The majority of unions studied follow such a procedure. However, disproportionate delegate representation results in disproportionate voting representation when delegates vote by voice or show of hand.

On the other hand, the objective of giving each member of the union an equal voice in its affairs can only be achieved by providing for proportionate voting representation, at least on matters important enough for the delegates to demand a roll call vote. The majority of unions studied met this objective by weighting delegate roll call votes to give all locals proportionately equal roll call voting representation.

APPENDIX - SHORT AND FULL NAMES OF NATIONAL UNIONS STUDIED

Short name	Full name
Actors & Artistes	Actors and Artistes of America; Associated (AFL-CIO)
Automobile Workers	Automobile, Aerospace and Agricultural Implement Workers of America; International Union, United (AFL-CIO)
Bakery & Confectionery Workers	Bakery and Confectionery Workers' International Union; American (AFL-CIO)
Bakery Workers (Ind.)	Bakery and Confectionery Workers' International Union of America (Ind.)
Barbers	Barbers, Hairdressers, Cosmetologists and Proprietors' International Union of America; Journeymen (AFL-CIO)
Boilermakers	Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers; International Brotherhood of (AFL-CIO)
Bookbinders	Bookbinders; International Brotherhood of (AFL-CIO)
Brewery Workers	Brewery, Flour, Cereal, Soft Drink and Distillery Workers of America; International Union of United (AFL-CIO)
Bricklayers	Bricklayers, Masons and Plasterers' International Union of America (AFL-CIO)
Building Service Employees	Building Service Employees' International Union (AFL-CIO)
Carpenters	Carpenters and Joiners of America; United Brotherhood of (AFL-CIO)
Chemical Workers	Chemical Workers Union; International (AFL-CIO)
Clothing Workers	Clothing Workers of America; Amalgamated (AFL-CIO)
Communications Workers	Communications Workers of America (AFL-CIO)

Short name	Full name
District 50-UMW (Ind.)	District 50, United Mine Workers of America (Ind.)
Electrical Workers-IBEW	Electrical Workers; International Brotherhood of (AFL-CIO)
Electrical Workers-IUE	Electrical, Radio and Machine Workers; International Union of (AFL-CIO)
Electrical Workers-UE (Ind.)	Electrical, Radio and Machine Workers of America; United (Ind.)
Engineers, Operating	Engineers; International Union of Operating (AFL-CIO)
Firemen & Oilers	Firemen and Oilers; International Brotherhood of (AFL-CIO)
Garment Workers, Ladies	Garment Workers' Union; International Ladies' (AFL-CIO)
Glass Bottle Blowers	Glass Bottle Blowers Association of the United States and Canada (AFL-CIO)
Glass & Ceramic Workers	Glass and Ceramic Workers of North America; United (AFL-CIO)
Grain Millers	Grain Millers; American Federation of (AFL-CIO)
Hod Carriers	Hod Carriers', Building and Common Laborers' Union of America; International (AFL-CIO)
Hotel, Restaurant Employees	Hotel & Restaurant Employees and Bartenders International Union (AFL-CIO)
Industrial Workers	Industrial Workers of America; International Union, Allied (AFL-CIO)
Iron Workers	Iron Workers; International Association of Bridge, Structural and Ornamental (AFL-CIO)
Laundry Workers (Ind.)	Laundry, Dry Cleaning and Dye House Workers International Union (Ind.)
Locomotive Engineers (Ind.)	Locomotive Engineers; Brotherhood of (Ind.)

Short name	Full name
Locomotive Firemen	Locomotive Firemen and Enginemen; Brotherhood of (AFL-CIO)
Longshoremen-ILA	Longshoremen's Association; International (AFL-CIO)
Longshoremen & Warehousemen (Ind.)	Longshoremen's and Warehousemen's Union; International (Ind.)
Machinists	Machinists and Aerospace Workers; International Association of (AFL-CIO)
Maintenance of Way Employes	Maintenance of Way Employes; Brotherhood of (AFL-CIO)
Maritime	Maritime Union of America; National (AFL-CIO)
Meat Cutters	Meat Cutters and Butcher Workmen of North America; Amalgamated (AFL-CIO)
Mine, Mill & Smelter Workers (Ind.)	Mine, Mill and Smelter Workers; International Union of (Ind.)
Mine Workers, United (Ind.)	Mine Workers of America; United (Ind.)
Molders	Molders' and Allied Workers' Union of North America; International (AFL-CIO)
Musicians	Musicians; American Federation of (AFL-CIO)
Office Employes	Office Employes International Union (AFL-CIO)
Oil, Chemical & Atomic Workers	Oil, Chemical and Atomic Workers International Union (AFL-CIO)
Packinghouse, Food & Allied Workers	Packinghouse, Food and Allied Workers; United (AFL-CIO)
Painters	Painters, Decorators and Paperhangers of America; Brotherhood of (AFL-CIO)
Papermakers & Paperworkers	Papermakers and Paperworkers; United (AFL-CIO)
Plasterers	Plasterers' and Cement Masons' International Association of the United States and Canada; Operative (AFL-CIO)

Short name	Full name
Plumbers	Plumbing and Pipe Fitting Industry of the United States and Canada; United Association of Journeymen and Apprentices of the (AFL-CIO)
Printing Pressmen	Printing Pressmen and Assistants' Union of North America; International (AFL-CIO)
Pulp, Sulphite & Paper Mill Workers	Pulp, Sulphite and Paper Mill Workers; International Brotherhood of (AFL-CIO)
Railroad Trainmen	Railroad Trainmen; Brotherhood of (AFL-CIO)
Railway Carmen	Railway Carmen of America; Brotherhood (AFL-CIO)
Railway & Steamship Clerks	Railway and Steamship Clerks, Freight Handlers, Express and Station Employes; Brotherhood of (AFL-CIO)
Retail Clerks	Retail Clerks International Association (AFL-CIO)
Retail, Wholesale	Retail, Wholesale and Department Store Union (AFL-CIO)
Rubber Workers	Rubber, Cork, Linoleum and Plastic Workers of America; United (AFL-CIO)
Seafarers	Seafarers' International Union of North America (AFL-CIO)
Sheet Metal Workers	Sheet Metal Workers' International Association (AFL-CIO)
Shoe Workers	Shoe Workers of America; United (AFL-CIO)
Stage Employes	Stage Employes and Moving Picture Machine Operators of the United States and Canada; International Alliance of Theatrical (AFL-CIO)
State, County & Municipal Employees	State, County and Municipal Employees; American Federation of (AFL-CIO)
Steelworkers	Steelworkers of America; United (AFL-CIO)
Teachers	Teachers; American Federation of (AFL-CIO)

Short name	Full name
Teamsters (Ind.)	Teamsters, Chauffeurs, Warehousemen and Helpers of America; International Brotherhood of (Ind.)
Telephone Unions, Alliance (Ind.)	Telephone Unions; Alliance of Independent (Ind.)
Textile Workers-TWU	Textile Workers Union of America (AFL-CIO)
Textile Workers-UTW	Textile Workers of America; United (AFL-CIO)
Transit Union	Transit Union; Amalgamated (AFL-CIO) 1/
Transport Workers	Transport Workers Union of America (AFL-CIO)
Typographical	Typographical Union; International (AFL-CIO)
Upholsterers	Upholsterers' International Union of North America (AFL-CIO)
Utility Workers	Utility Workers Union of America (AFL-CIO)
Woodworkers	Woodworkers of America; International (AFL-CIO)

1/ Formerly the Amalgamated Association of Street, Electric Railway and Motor Coach Employes of America (AFL-CIO); name changed effective July 1, 1964.

☆ U.S. GOVERNMENT PRINTING OFFICE : 1965 O—790-715

Unions — internal democracy
(or Union Adminis.)

Labor Program
Southern Regional Council, Inc.
5 Forsyth Street, N. W.
Atlanta, Georgia 30303

INSTITUTE OF INDUSTRIAL RELATIONS

THE ANATOMY OF CORRUPTION IN TRADE UNIONS

by

John Hutchinson

Reprint No. 197

UNIVERSITY OF CALIFORNIA
LOS ANGELES, CALIFORNIA 90024
1969

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Reprinted from INDUSTRIAL RELATIONS, VOL. 8, NO. 2, FEBRUARY 1969.

JOHN HUTCHINSON*

The Anatomy of Corruption in Trade Unions

IN THE SPRING of 1957 the Senate of the United States authorized an investigation of improper practices in American industrial relations. Conducted under the chairmanship of Senator John L. McClellan of Arkansas as essentially an examination of trade union behavior, the inquiry lasted three years and produced the most damaging indictment of American unions ever compiled.

But if the evidence was damning, it was also incomplete. In overwhelming degree it was directed at the imperfections of unions and union leaders alone, at the fact of misbehavior but not the cause. Trade union corruption is a complex matter. It is a product of trade union philosophy and government; but it owes little more to wayward union officials than to predatory employers, to industrial characteristics and practices, to corruption in politics and law enforcement, to organized crime and an imperfect criminal law, to ethnic discrimination and isolation, to the social conditions of the cities, and to a public philosophy which, in electing for the competitive society, has accorded either praise or tolerance to the victor in a battle lightly burdened with rules. It is neither simple in origin nor always easy to repair. If the aim is understanding rather than accusation and remedy rather than retribution, there is a duty to examine, not only the institution of trade unionism, but also the forces which influence its ways.

The Course of Corruption

Corruption is a matter of standards. There are many aspects of trade union behavior which, depending on the tastes of the observer, can be regarded as admirable or base, realistic or dishonest, statesmanlike or dishonest, fitting or ostentatious; the field for debate is immense. But hopefully one principle is beyond dispute — namely that trade unionism should not be regarded as an instrument of commercial profit. I have therefore chosen to regard corruption as the use of union power for private, unsanctioned enrichment by anyone.

The problem is an old one, dating back to the 19th century. It began as an observable phenomenon in the building trades a decade or so after the Civil War. Full-time union officials were given the authority — necessary in a geographically scattered industry characterized by relatively brief construction projects — to call immediate strikes or protest meetings to protect working conditions. The power was abused from time to time, being used to collect "strike insurance" from em-

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ployers or to fine them for imaginary infractions of union rules. The employers, in turn, were often prone to bribery or violence as a means of curbing union demands. In time there developed city-wide systems of collusion between union representatives, employers, and public officials — notably in New York City and Chicago — which disciplined the industry and increased the private incomes of the parties at the expense of the public. The major local redoubts of corruption in the building trades came to an end in the twenties after a series of investigations; but extortion and bribery have proved to be durable practices, continuing — if on a much reduced and declining scale — until present times.

There was, it should be noted, a special quality about the extortionists in the building trades. They were amateurs, men who originated in the industry and could at least claim to be trade unionists, and who could often point away from their failings to genuine services rendered to their members. Side by side with the lineage of amateur thieves in the building trades and some other industries, however, there came to prominence a much more sinister breed with no claims to legitimacy and few to service. Particularly with the advent of Prohibition, the American labor movement came to suffer the attentions of an intruder far more malicious and dangerous than the fallen building tradesman: the professional racketeer.

The Rise of the Gangs

Gangsters became involved in American industrial relations towards the end of the 19th century, graduating from the streets to machine politics to independent brokerage, providing violent services to employers and unions alike. In the New York garment trades, for example, they became active in the nineties, reached a peak of influence in the twenties, and despite sustained union resistance since then remain a problem in some sections of the industry today. But prior to the twenties the gangsters were minor figures, quite obscure and not very ambitious. Then the mechanics of bootlegging propelled them to influence in the major service industries involved — road transportation, restaurants, and hotels. Jurisdiction grew with consolidation, and in time the Capone and other organizations penetrated industries and unions ancillary to the consumption of alcohol — laundry, light foods, condiments, soft drinks, and others. Eventually there were few limits to ambition. The true extent of underworld influence in trade unionism and industrial relations during Prohibition is no doubt undocumentable, but it was important in major cities in the East and Midwest, including New York, Detroit, Cleveland, and, of course, Chicago. In 1929, the Illinois Association for Criminal Justice estimated that 90 industries in Chicago were dominated by gangsters; the Chicago Crime Commission declared that two-thirds of all local unions in Chicago were under criminal influence; and even the American Federation of Labor — not prone to confessions of guilt in this field — conceded that 27 AFL local unions in Chicago were controlled by the underworld.

Repeal brought a change for the worse. The activities of gangsters in the labor movement during Prohibition were essentially local or regional in character. The legalization of liquor, however, brought about a severe drop in underworld revenues and a need for new business. Trade unionism and industrial relations now came to be regarded increasingly as a proper source of income in themselves.

Given the methodology and resources of the underworld, there was no necessary limit to aspirations. The Capone organization now took aim at a new level of influence: the international union.

It made three attempts to gain control of an entire union. In 1938 it financed a lavish campaign to elect its nominee as president of the Hotel and Restaurant Employees, failing only after a determined resistance at the union's convention in San Francisco by the incumbent officers, the local police, and the San Francisco Labor Council. It succeeded elsewhere. In 1934 it elected George Browne to the presidency of the International Association of Theatrical and Stage Employees; the new president, in collaboration with Capone representative Willie Bioff, thereafter extorted some two million dollars from the entertainment industry. In 1934, also, it arranged for the appointment of professional strike breaker George Scalise to a senior post in the Building Service Employees, subsequently elevating him to the presidency of the union. Browne, Bioff, and Scalise all went to jail in 1940–41 for stealing union funds.

They represented the peak of underworld influence in the American labor movement. The adverse publicity and the growing sensitivity of both the labor movement and the public to racketeering, as well as a general decline in the more bizarre operations of the underworld, militated against any future attempt by gangsters to seize power at the international union level. But the problem of corruption remained. Congressional investigations in the thirties and forties revealed extortionary practices in the building trades, the poultry industry, the musical profession, trucking, produce markets, and the jukebox industry. In the fifties, Congress uncovered a new field of malpractices in the rapid growth of negotiated welfare funds — primarily involving collusive activities among union officials, welfare fund administrators, lawyers, and brokers who jointly plundered the funds through kickbacks, excessive charges, and theft; Congress responded by passing the Welfare and Pension Plans Disclosure Act of 1959 to supervise the administration of funds. Also in the fifties, the New York State Crime Commission showed that — in perhaps the classic case of the infiltration of a union by the underworld — the International Longshoremen's Association in New York and New Jersey was corrupt; here the two state legislatures responded by creating a bi-state commission to supervise the affairs of the union.

Then, in 1957, came the McClellan investigation, the most exhaustive of its kind. It uncovered financial malpractices or conflict of interest activities in the Meat Cutters, Bakers, Laundry Workers, Distillery Workers, Sheet Metal Workers, Carpenters, United Textile Workers, Hotel and Restaurant Employees, Teamsters, and a few other unions. It charged that underworld elements were influential in the Teamsters and Hotel and Restaurant Employees in Chicago, and in local affiliates of other unions in various cities. It paid special attention to Teamster President James R. Hoffa, accusing him not only of financial malpractice and conflict of interest activities but also of collusion with the underworld to gain and keep control of the union. The evidence in general was not always conclusive, nor was the conduct of the Committee a model of investigative behavior, but there was no doubt of an incidence of wrong-doing quite intolerable in its character and proportions. It moved the AFL-CIO to disciplinary action against a number of its affiliates and Congress to a major legislative enactment — the Landrum-Griffin

Act — which provided for detailed supervision by the federal government of union finances, elections, and deliberative and disciplinary procedures.

It was an unhappy record. For over two generations enough union officials had engaged in or tolerated corrupt practices to bring enduring damage to the reputation of American trade unionism. No other labor movement had such a record. Why did it all take place?

Trade Union Philosophy

Business unionism is a common target, a favorite devil of the critics. The charge is that it is a narrow creed, a child of the acquisitive society and tolerant of its manifestations, a handmaiden of corruption. The charge is suspect, not least since the term itself is often misunderstood.

Business unionism is the pursuit of improvements in wages, hours, and working conditions primarily through collective bargaining. At its best it is a perfectly honorable if modest pursuit, and indeed dominates the conduct of many union leaders formally dedicated to a more expansive view of their calling; the first priority of most union officials, whatever the content of the major policy statements, is the servicing of their members at the workplace. It is not a venal idea at all; it gives no sanction to peculation, and most unions noted for their commitment to business unionism — among them the United Mine Workers, the International Typographical Union, and the operating railroad brotherhoods — have remained effectively free of fiscal scandal. It is not a lazy view of trade unionism; most business unionists have contributed as much in time, risk, and fidelity to their unions as have their more cosmic-minded counterparts. The average business unionist has served his constituents honestly and well.

Yet a doubt remains. It may be, as Philip Taft has suggested, that the only requirement is "the simple ideal of honesty"; but honesty in behavior is nowhere an absolute; the ideal is perhaps less reliable alone than when supported by other persuasions. Business unionism is not a mercenary creed, but neither is it much of a discipline; it is short on imperatives. For some it is indeed a dedication, exclusive of other gainful activities. For some it is a worthy way of life, a form of service, but not prohibitive of other sources of income. For others it is truly a business — perhaps with a special rhetoric and appeal, but still a business. Even so defined it is not a license for theft. But the commodity conception of trade unionism is an imperfect guide to ethics; the narrowness of its vision leaves too much to the imagination of the acquisitive and the weak.

It does seem from the record that something of a contrast can be drawn between the behavior of the business unionists and those now called social unionists — those of the larger view, committed to the notion of trade unionism as a moral cause broad in social jurisdiction, demanding in time and standards. The evidence leaves little doubt that resistance to corruption in the needle trades, the culinary trades, the building services, and elsewhere came largely from men who could qualify as social unionists. As a matter of federation tradition, the Congress of Industrial Organizations was always more sensitive to charges of misbehavior than the American Federation of Labor before the presidency of George Meany. There were special reasons why this was so; there was less corruption in the industries organized by the CIO, and the more compact distribution of most indus-

trial union members made them less vulnerable to intimidation than the more geographically scattered craft unionists. But there was also an element of ideology involved. The litany of trade unionism in the CIO always had a more prescriptive quality than that of the AFL. The older organization, before 1952, seemed too prone to tolerate, too seldom ready to cure. It is hard to avoid the impression that the strongest resistance to corruption came from those for whom the labor movement was more than a service agency.

But there is no precision here. There was no necessary causative relationship between business unionism and corruption, only a negative connection at worse. Perhaps it should be argued that in the presence of temptation or error the so-called business unionists could have used a stronger creed. On the other hand, behavior was unpredictable. Most craft unions led by business unionists remained free of corruption, while some industrial unions — such as the Bakers and the United Textile Workers — went astray. In any event, there were always minimum standards, applicable to all regardless of philosophical commitment. Theft from the members was always one of the basest of trade union crimes, as well as a felony. "I am kind of old-fashioned," Meany said of the comment by the AFL-CIO Committee on Ethical Practices that the worst offense of President James G. Cross of the Bakers was to engage in business activities with bakery industry employers, "I think the stealing of the members' money was the worst thing."

Furthermore, the distinction between philosophical types is hazy and misleading. Business unionism was always an inexact term, embracing a variety of attitudes and styles, and is seldom used today. Social unionism is a relatively recent label, vague and elastic in content, virtually without circulation except among intellectuals. The conventional posture of the labor movement, indeed, has long rejected the notion of a parochial trade unionism committed to selfish ends; the broad and the narrow, the noble and the selfish, the honest and the corrupt—almost all have long paid tribute to the idea of a labor movement deeply involved in human affairs, high in purpose, complex in method, and global in jurisdiction. There are corollary standards of behavior, prohibitive of cheating and disloyalty, long a part of trade union folklore and now formalized in the AFL-CIO Codes of Ethical Practices. Ignorance of the rules, for a generation at least, has been a poor excuse for delinquency. At the same time, a fine philosophy has never been a guarantee of good behavior. It might properly be said that the American labor movement, like all human institutions, has attracted its quota of the greedy, the hypocritical, and the frail. Some needed no special temptation to steal. Others did. The circumstances deserve consideration.

Union Democracy

Union government is an issue. Until recent years, the internal conduct of American unions was little affected by the law, and there have been great variations in behavior. American unions have sometimes been charged with a high frequency of autocracy; the common assumption is that autocracy is a cause or agent of corruption, and that the imposition of democracy by the law will eliminate the corrupt. It hardly seems necessary to state that democratic unions are less likely to be corrupt than undemocratic ones, but that is not always the case. Expectations should be realistic.

A trade union is by proper origin a responsive institution, a collective resistance to indignity and arbitrary authority. If it is faithful to its credentials, it should negate by example the evils it was founded to resist. At its best it is a democracy of intelligent grievances, servant to its members and careful of rights.

But perfection is an imperfect counsel. No institution shows at birth or maturity all the virtues it might claim. The Athenian democracy is a poor model for most working organizations, and there have been special strains on the ability of American unions to emulate the Greeks. Violence has been the midwife of many organizations and a companion of their lives. Few labor movements have had to deal over so long a period with such opposition — both physical and political — to the elementary right to exist. Survival or effective performance have therefore sometimes seemed to require special disciplines, not always gently imposed. Loyalty is a natural principle of trade union organization, always necessary in some measure, but sometimes demanded at the expense of the right to dissent. Orthodoxy is the great temptation, particularly in dangerous times; even among the most sedulously democratic of unions there are departures under pressure from high constitutional principles. Then age and habit beget oligarchy — lightly resisted when the essential functions are performed — resentful of challenge or discomfort.

But strong rule is not a necessary cause of corruption. John L. Lewis dominated the United Mine Workers for 40 years without a murmur of financial scandal about him. In fact, in some cases the authority of union leaders has been stretched to eliminate rather than entrench the corrupt. For a generation the president of the International Ladies Garment Workers Union has had the power to require of every elected or appointed official a signed, undated letter of resignation, requiring only a majority vote of the union's executive board and the president's date-stamp to make it effective; the practice dates back to the twenties when the internal struggle against both racketeers and Communists threatened to destroy the union. However undesirable in principle, it seemed justified at the time to men committed to democratic trade unionism, and has been retained in part to fight the lingering corrupt. The extraordinary powers given to former President James C. Petrillo of the Musicians — enabling him to interpret the union's constitution virtually at will — might not have been unrelated to the attempts of the Capone organization to annex the union's affiliates in Chicago. The nature of the opposition in the AFL's battle against the ILA in the fifties, as well as the traditional ebullience of the waterfront, did not encourage the observance of Queensberry rules.

What might without facetiousness be termed the responsible abuse of power — the imaginative interpretation of union constitutions, the insistence on orthodoxy in times of trouble, the individual approach to parliamentary procedure, the selective processing of grievances, the response in kind to the methods of the enemy — has seemed to some from time to time to be a necessary resort. Sometimes the odds do not permit of both survival and the courtesies. Anyone familiar with the folklore of the principal trade union victories over the underworld has leave to doubt whether it would always have been better to observe all the rules.

American unions are imperfectly governed, but what of it? Autocracy is observable in other private institutions — in churches as in business, and not least in other labor movements — without the conspicuous accompaniment of theft. Possibly American unions are more autocratic than their foreign counterparts; but it

can also be argued, on ample evidence, that the great majority of American unions conduct their affairs to the general satisfaction of their members. Indeed, a strong case can be made for the proposition that the indifference of satisfied union members is a stronger inducement to corruption than the heavy-handedness of union leaders. One of the more disturbing lessons of American trade unionism is that morally dubious activities on the part of economically effective leaders is so seldom a cause of membership revolt. "I've got mine," a Teamster said in Detroit. "Why shouldn't Hoffa get his?"

This is not to elevate autocracy, nor to deny its role in corruption. It was almost always a precursor or a companion of corruption; most of the delinquents of record were destroyers of democracy. Congress was right to intervene.

But union democracy is by no means the only issue. The New York City newsvendors' local investigated by the McClellan Committee was something of a showpiece of democracy, but not one of fiscal propriety. The generally democratic traditions of the Bakers, Meat Cutters, Hotel and Restaurant Employees, Building Service Employees, Teamsters, and other organizations did not prevent the emergence of local or national redoubts of corruption. Democracy was not a cure-all. Sometimes more powerful factors were at work.

The Industrial Environment

The market was a factor, perhaps the most powerful of all. Trade union corruption has been most flagrant and enduring in industries of shared characteristics. It has been most obvious in the construction, garment, longshoring, culinary, and road transportation industries. All these have been notable in some degree for small business units, high proportional labor costs, intensive competition, small profit margins, relative ease of entry, and a considerable rate of business failures. At least in the past the battle for survival was often fierce, with ethics an early casualty. Wages were a natural point of attack by employers who sought cheapness and stability by bribery, coercion, or collaboration. Union officials used their economic power to private advantage against employers highly vulnerable to the strike, the slowdown, or other reprisals. The frequently chaotic condition of the industries involved made them a natural field for the hired marauder, the professional stabilizer, available to both sides and reluctant to leave when once established. Corruption in law and politics took their toll. Union members and the public paid the price.

In the building trades the extensive practice of subcontracting maximized the number of small and highly competitive firms vulnerable to the extortionary strike. The common presence of a penalty clause in a building contract, providing for penalty payments to the customer by the contractor if the job was not finished on time, made the strike the most feared of events. The relative immunity of building trades union officials from national union discipline in an essentially local industry, and the absence of effective extra-local commercial competition, encouraged in time the development of labor-management collusion at the expense of the consumer. The availability of corrupt public officials in some cities led to the creation of triumvirates of grafters who looted the public purse, lowered construction and safety standards, and inflated building costs to their personal advantage.

The subcontracting or "jobbing" system and the uncertainties of fashion in the needle trades brought a special competitiveness to the industry, particularly in the

manufacture of women's clothing, while the high proportion of immigrants and females in the work force made it highly vulnerable to intimidation. On the New York waterfront the congestive inadequacies of ancient facilities permitted extortion at many points of operation; this, together with the dishonesty or indifference of employers interested mainly in a docile and underpaid labor force, the collusion of the police, and the permissiveness of Tammany Hall, made easier the invasion of the longshoremen's union by the underworld. The hotel, restaurant, and trucking industries — already highly competitive and susceptible to extortion — were natural extensions of underworld jurisdiction with the advent of Prohibition. Both longshore and trucking, because of their relatively low skill requirements and high opportunities for stealing, were favorite job markets for ex-convicts and the criminally inclined. In the restaurant, theatrical, laundry, and garment industries the stink-bomb and the fire were the simplest and most crippling of weapons for the extortionist.

There were reasons, too, why other unions remained free of corrupt influences. The job printing industry is highly competitive among generally small firms; but typographers are a highly sophisticated group, strong in self-discipline and sense of craft, an occupational community governed by long traditions of propriety and democracy. The railroads and public utilities are only mildly competitive if at all, subject to a high degree of public regulation, poor ground for illicit activities. The white-collar and professional unions — such as the Teachers and the Air Line Pilots — could probably claim the sophistication of their members and the public visibility of their occupations, in addition to the simple absence of opportunities for theft or extortion, as reasons for their respectability. The circumstances of mass production have always been a hindrance to extortion; the companies are large, centralized, typically stable, not savagely competitive, very much in the public eye, too big for important corruption. The mass production unions — the Autoworkers, Steelworkers, Rubber Workers, and Machinists — are usually organized into local unions of substantial size; their members are grouped together at work in large numbers, well placed to watch over local union affairs and to resist intimidation. They are in any case subject to strong national union discipline growing out of both ethical tradition and nationwide bargaining patterns. Unions in the mass production industries have thus generally been more inclined and better equipped to resist corruption than their counterparts in more competitive industries and fragmented unions. The industrial environment has had much to do with both the propensity and the opportunity to steal.

The Amateurs and the Professionals

Given the inducement to corruption, the transgressors were two in kind: the amateurs and the professionals. The amateurs were the majority, up from the shops, trade unionists with a flaw, often brutal but seldom lethal, usually entitled to some credit for service, and not too hard to frighten into virtue once the odds were changed.

But while the conditions which produced the amateurs had much to do with the success of the professionals, there was a special quality about the latter. They came with terrible reputation and power. They were the proconsuls of the American underworld, of a criminal system which, at least from the twenties, worked largely in disdain of the law and whose justice could be swift, terminal, and unre-

quited. Neither the labor movement nor the law was prepared for effective response.

Terror was the note. Resistance to the amateurs could be physically uncomfortable and economically disastrous, but it rarely involved mortal consequences. The rebel against the racketeers, however, faced not only the resentment of his more pliable brethren but also the private remedies of the underworld. Some union representatives — not to speak of employers and public officials with a vested interest in criminal ways — stood aside because of greed or indifference; but they all had cause enough for fear. The open threats and anonymous telephone calls, the revolver on the negotiating table, the warning treatment in the alleys, the ineffectiveness of the law, the natural care for life and especially for dependents — the deterrents to resistance were ample. The alternative to surrender, it seemed to many trade unionists of good disposition, was a high chance of death. It was a hard choice for all but the rarest of men.

Corruption and the Society

They were victims of a social condition. Violent crime is an expected feature of any new society, but it has shown a special strength and endurance in the United States. The heritage of frontier justice, an individualistic culture, an entrenched philosophy of acquisition, an admiration for the sharp transaction, a tolerance of the fix, and a legacy of politics viewed as a source of income have brought to American criminal behavior a boldness, and to law enforcement a capriciousness, foreign to most other democracies.

Crime grew on fertile soil. The city gangs received early recognition from the political machines, to whom they rendered useful services in voting, vote counting, and the molestation of political opponents. In time they became autonomous and graduated to strikebreaking and extortionary activities in labor-management relations. Immigration and ethnic isolation added to the strength of the gangs. The Irish, Jewish, and Italian communities lived in enclaves, resented by and resenting the dominant Anglo-Saxons; the discrimination which created the ghettoes thwarted the natural ambitions of the native-born generations, and some individuals took the criminal road to status and money. The ethnic gangs came into being — the Irish in the building trades and longshoring, the Jews in the garment industry, the Italians in longshoring and the service trades — protected from the law by the clan. The gangs became a permanent part of urban society, and then were thrust to unparalleled eminence by the scofflaws of Prohibition. Repeal brought an urbanity of style and consolidation of power, not only in the traditional vices but in legitimate enterprises as shop-front activities. The gangs remain a major social force. Organized crime, according to the 1967 report of the President's Commission on Law Enforcement and Administration of Justice, is "the most sinister kind of crime in America . . . a national problem of the highest priority."

The business community made a contribution to lawlessness. It held a privileged place in the law, enjoying immunities from criminal prosecution denied to private citizens, particularly the poor. Business crime was a major institution, defiant of traditional law enforcement. "The financial loss of white-collar crime," E. H. Sutherland wrote in 1940, "is probably several times as great as the loss of all crimes which are customarily regarded as the 'crime problem.'" It was lightly punished. "The one thing on which all authorities seem to agree," Sutherland

wrote in 1949, "is that white-collar crime has a low vulnerability to official action." Business standards were a model for the envious, affecting the morals of politics and the law, a contributory cause to the peculiar scale of American crime.

The standards of businessmen conditioned their response to corruption in unions and labor-management relations. Extortion was commonly acceptable if it meant a softening of union demands or led to a cooperative control over the market. The mistreatment of employees by gangsters or corrupt union officials seldom evoked any protest, particularly when industrial docility was the result. The condition of business was the test. Not in the building trades, nor in the garment industry, nor on the waterfront, nor in the service trades, nor in the entertainment industry, nor in road transportation, nor in any other industry seriously affected by amateur or professional corruption, is there a public record of substantial employer opposition to the works of the corrupt. There was usually formal support for public investigations and private crime commissions, but seldom loud protest or effective action against the predators. In most cases there was only collaboration or silence. The way of the reformers, in or out of the labor movement, was always harder than it might have been.

The law was largely ineffective. The criminal law was a child of Anglo-Saxon traditions, but the anxiety of bygone American legislatures to protect the innocent against hasty or prejudiced justice brought to the American criminal law a procedural complexity unknown to its parents, multiplying the obstacles to acceptable evidence and effective decision, a boon to the innocent and guilty alike. Complex law and corrupt politics were often allies, producing discretionary arrests by local police, the convenient loss of records, the purchase of safer pleas, and the arranged neglect to prosecute. Political influence, private income, and advocative ingenuity built civic sanctuaries for the underworld. It became literally true that a powerful criminal figure with enough money and connections could get away with murder. "There is," criminologist Walter C. Reckless wrote in 1955, "no direct legal attack on racketeering . . . local ordinances are powerless to get at the operations of racketeers. So are the ordinary state laws. So are the federal laws. . . . Professional and organized criminals have always had the advantage of the American police through fixing and political pressure. Under the American system of law enforcement and prosecution, racketeers are practically immune."

The culture was tainted, the law was unreliable, the public was tolerant, and the racketeers were safe. Few institutions escaped the consequences. The labor movement was one of the victims.

The Response of the Labor Movement

The great majority of unions, of course, have been untroubled by serious corruption. One of the misfortunes of the front-page publicity usually given to trade union malpractice — in contrast to the more subdued treatment of business errors — is the widespread notion that the problem is endemic. Corruption has certainly occurred often enough, but serious wrongdoing has been concentrated both industrially and geographically and except in the most infected unions has involved only a handful of men. In other cases corruption has been only a local and brief phenomenon, dealt with summarily and usually effectively.

But where the problem was serious, the response was often less than salutary. Corruption in the New York and Chicago building trades from the turn of the

century to the twenties was generally of the amateur kind; yet internal resistance to it at any level was only occasional, and often quite lethargic even then. Virtually at no time was there strong disciplinary action by either national or local building trades organizations until embarrassment was high or the membership took charge. Nor was lethargy in resistance or criticism restricted to the building trades. There is ample evidence that, until recent times, the revelation of corruption in AFL unions stirred something less than a tidal wave of indignation and retribution among sister organizations.

Perhaps the relative harmlessness of the amateur grafters helps to explain the relative inaction against them. They were neither strangers nor simple marauders; they stole and extorted, but not too often from their members; they were crooks, but their criminality was usually combined with genuine service to their unions. There was an even more important factor. The amateurs were usually in positions of authority in their unions, often close to the top. They controlled or influenced the disciplinary procedures which might have been used to judge them; they controlled or influenced the jobs of those who might have moved to punish them; and the law had not yet intervened effectively to protect dissent from the rank and file.

Resistance to the professionals, of course, was a much more dangerous matter. One of the irritating elements in the criticism of trade union corruption is the failure of the critics to recognize the odds sometimes faced by the honest. There is a bad grace in the florid denunciations, not least by members of the Congress, of "cowardice" on the part of those whose dangers they do not share. Underworld reprisals ranging from the lost job to death in a lime-pit, are romantic morbidities to some critics, but morbid realities to the recipients. The fact is that in very many cases the victim had nowhere to turn for help. If — as in the case of the New York waterfront — the union was corrupt, virtually in the hands of racketeers, in collusion with the employers, and protected by venal judges, politicians, and policemen, it was not hard for the average longshoreman to conclude that silence was preferable to valor. He was not alone in his predicament.

Thus genuine resistance to the racketeers was all the more impressive when it came about. It is hard to withhold high respect from those men in the needle trades who fought a long and complex war against the underworld; from those in the culinary trades, the building services, and theatrical trades who resisted the Capone organization; from unions such as the Seafarers which gave protection — not only to their own, but to longshoremen and workers in other industries — against the terrors of the gangs; and from the legion of individual union officers and members who took their lives and livelihoods in their hands for the sake of their unions. They all confronted the deadliest of opponents, with all too rare assistance from the public authorities. It is a pity, if hardly a surprise, that the history of the wars is not more fully recorded.

The Role of the Federations

The national labor bodies had a role to play, with special problems of their own. Individual unions are, in a trade union sense, sovereign bodies, with great power to discipline offenders. It is a different matter with federations, at least in the United States.

The autonomy of individual unions is one of the strongest traditions in Ameri-

can trade unionism. The AFL was a highly permissive organization, in fact a confederation, reluctant and almost powerless to impose its will on any but the weakest of its affiliates. Neither Gompers nor Green was inclined to interfere in the internal affairs of affiliated unions; neither president, as a matter of political reality, could be much more than a conciliator. Not until the succession of George Meany to the presidency of the AFL in 1952 did the combination of an obdurate personality and bad publicity lead to major disciplinary action against an affiliate — the expulsion of the ILA in 1953 for corrupt practices.

The CIO was a more strongly governed body than the AFL before 1953. The enormous ability and prestige of John L. Lewis, his own instinct for authority, and the dependence of many young CIO unions on the financial assistance and personal guidance of the mineworkers' president, gave him a great influence in the affairs of individual affiliates; but corruption was never a problem during his reign. His two successors, Philip Murray and Walter Reuther, also led firmly but with a lighter hand. CIO discipline was always stronger than that of the AFL, but corruption was never a serious problem. The CIO promulgated clear standards and demanded decisive action from affiliates which were troubled in any way with dubious practices, but there was never any great test of its disciplinary powers until the expulsion of the Communist-led unions in 1949. This, of course, was a major act of self-discipline; but it was plainly made easier, if not imperative, by the state of public opinion.

Much the same, no doubt, could be said of the AFL-CIO's actions against the corrupt. The findings of the McClellan Committee were sensational and the federation's leaders probably felt that to leave the malefactors alone would incur a danger of punitive legislation. The AFL-CIO was also better placed than either the AFL or the CIO after Lewis to impose strong disciplinary action. It was a new aggregation of power. The affairs of the AFL and CIO tended to be dominated by a few large unions, the Teamsters and Carpenters in the AFL, the UAW and the Steelworkers in the CIO. The merger of the AFL and CIO in 1955, however, diluted the strength of the giants by increasing their number; no single union or pair of unions now had a veto. Furthermore, the merger brought together a large number of unions which, though long separate in affiliation, now thought similarly enough to be ready for united action on a matter of major consequence to the future of trade unionism in the United States.

Nevertheless, the particular actions taken by the AFL-CIO were not totally dictated by circumstances; alternative steps were always available, and there was something less than unanimity on the need for hard measures. The actions taken by the AFL-CIO against the corrupt were remarkable, in some cases at least, for their severity. There was also a very firm hand in charge. The public record and the AFL-CIO archives leave no doubt that the architect of policy in the matter of corruption, and by far the chief influence in its administration, was President George Meany.

The federation espoused, in fact, a quite revolutionary doctrine of intervention in the affairs of affiliated unions. "The constitution of the AFL-CIO makes it clear," the AFL-CIO Committee on Ethical Practices said, "that no affiliate has the autonomous right to permit corrupt or unethical practices which endanger the good name of the trade union movement." The 1957 AFL-CIO convention ex-

pelled three unions investigated by the McClellan Committee — the Laundry Workers, Bakers, and Teamsters — losing over 10 per cent of its membership and revenue in the process. In a step without any real precedent, it established de facto trusteeship over three unions — the Distillery Workers, Allied Industrial Workers, and United Textile Workers — appointing a monitor over each to implement the reforms ordered by the federation. In addition, the federation maintained a watch over the Operating Engineers until it was satisfied that appropriate remedial action had been taken.

The AFL-CIO chartered new unions to compete with the Bakers and Laundry Workers, but none to fight the Teamsters, for good reason. In the two former cases there were large groups of rebel officers and members eager and waiting to accept new charters from the federation. None came forward from the Teamsters. They were a special case — fiercely independent, regarding themselves as a movement on their own, extremely powerful, and most ably led. The price of war would have been very high, with the prospect of any gains of importance poor indeed.

What more could the AFL-CIO have done? The ILA was accepted into the AFL-CIO in 1961, much improved but hardly pure. The federation might have kept the ILA out or imposed stricter conditions of affiliation, but the union was already under the most exacting public supervision (by the Waterfront Commission of New York Harbor) of any union in American history, and there was a danger of the Teamster embrace. Various senior officials of the Carpenters were criticized by the McClellan Committee for financial malpractices, but no public action was taken by the federation. Perhaps it was unpersuaded of intolerable guilt; perhaps there was internal adjustment; perhaps the cost of disciplinary action against one of the AFL-CIO's most powerful affiliates loomed too large after the expulsion of the Teamsters — the record does not show. In other cases, the Hotel and Restaurant Employees placed several of its Chicago locals under supervision; there were several resignations from the Meat Cutters; and almost all the remaining charges of corruption were confined to local incidences, perhaps too remote or minor for the federation's attention.

Retribution was no doubt imperfect, but it was extensive and generally impressive. There was little else the federation could have done. It had probably reached the limit of politically feasible discipline, and might have caused more harm than good by attempting to do more.

Retrospect and Prospect

What should be the verdict? Like Israel, as John L. Lewis once said, labor has many sorrows. The general ailments of the American labor movement are universal to trade unionism; but corruption has been a special sorrow here. The charges, and various versions of the facts, have become a currency of international conversation and have left a mark at home.

The need is perspective. Corruption there was, prominent and irrefutable, but it was never as widespread as the public was told to believe, and in terms of guilty men it was very small in scale. Tolerance there was, for over half a century; but the labor movement was not an agency of the law — itself most imperfect — and demonstrated in time a remarkable capacity for self-expurgation. Culpable it was, but so was the nation; such corruption as existed sprang as much from the ills of

American society as from the imperfections of the labor movement, and one wonders what inquisitions elsewhere would reveal. It is not enough to point to the faults of other institutions by way of excuse, but no organization lives by itself. The American labor movement bears the marks of errors other than its own.

What are the prospects? Corruption has not been officially discussed by the AFL-CIO for some years, and the Committee on Ethical Practices has not met for nearly a decade. The unions reformed by fiat of the federation invoke no public comment. The new bakers' and laundry workers' unions are still in competition with their expelled predecessors, but the wars are mild and interspersed with talk of reconciliation. The Teamsters, now possibly the most carefully governed union in the United States, are still in exile; but except for a chill at top levels they cooperate extensively with AFL-CIO unions in organizing, bargaining, and political activities. Hoffa is almost the exclusive obstacle to reunification. He is now in jail. The longer he is away, the closer the relationship will become.

This is not to say that behavior is perfect. There have been recent charges of corruption in the New York and California locals of the Painters, revolving in the latter state around the murder of two local union officials. The New York waterfront is a continuing if subdued source of criminal behavior, while convictions for embezzlement and extortion continue at a light but steady pace elsewhere. Senator McClellan talks darkly of misdeeds in the welfare fund field and has threatened further investigations. There are occasional charges of misdeeds from other sources.

But the adverse evidence is unimpressive in either substance or volume, particularly when compared with the past. Furthermore, the conditions which caused so many former troubles have changed. The ferocious competition once common in the construction, garment, and service trades has become somewhat more restrained. Municipal corruption is not at all what it used to be. Public supervision of trade union affairs is as detailed as anywhere in the Western world. There is no important pressure for new laws; rather there seems to be a sense of saturation, a doubt that any further governmental intervention in internal union affairs would be compatible with the notion of free trade unionism. The labor movement itself has adopted, in its Codes of Ethical Practices, a standard of trade union behavior which is surely as demanding as any; hopefully the warnings of experience and the enforcement of the law will ensure its continued observance.

It seems reasonable to expect that, whatever the relaxing effects of time and habit, the amateur offender is in permanent retreat as a serious problem for the American labor movement. He was in the great majority of miscreants, but also the easiest to eliminate. The law, and the enlightenment of the labor movement, should keep him at bay with ease.

The professional might be a different matter. There has been an acceleration in recent years in public activity against the underworld. There are new laws against racketeering and new funds for their administration. Since 1960, there has been at least a four-fold expansion in federal personnel dealing with organized crime and a manifold increase in both indictments and convictions. But optimism is limited. "We have made significant progress," Attorney General Robert F. Kennedy reported to his brother in 1963, ". . . but no one believes the tide of battle has turned." In 1967, the President's Commission on Law Enforcement and Administration of Justice declared that the Cosa Nostra, the alleged high council of organized crime,

was now powerful enough to manipulate the stock market and the price of bread; that it operated in major cities across the nation, controlling nationwide manufacturing and service industries of outward respectability; and that the money for its "respectable" enterprises came from its illegal or marginal activities, including labor racketeering.

The professional is still at hand, lingering at the edges of the labor movement, unwelcome but resourceful, greedy for opportunity, afraid of the law but vicious to private opponents. He is an outlaw with political and legal protection, capable in more casual days of terrible damage. Not all the good intentions and courage of the labor movement can entirely eliminate the threat he represents.

Only time and social change can heal. The leveling of crime to tolerable proportions in the United States will depend upon many developments — among them the reform of the criminal law, the raising of business and political ethics, the recession of race, the decline of want, and the sharpening of the public sensitivities. They will not come soon in proper measure; but until they do, the labor movement will continue to suffer the attentions of the enemy outside.

BIBLIOGRAPHICAL NOTE

There is not much theoretical literature on the subject of trade union corruption. For probably the earliest attempt at categorization, see Robert F. Hoxie, *Trade Unionism in the United States* (New York: Appleton, 1922), esp. pp. 50–51. The best general comment is Philip Taft, *Corruption and Racketeering in the Labor Movement* (Ithaca: New York State School of Industrial and Labor Relations, 1958). See also, David J. Saposs, "Labor Racketeering: Evolution and Solutions," *Social Research* (Autumn, 1958). The best causative analysis of a single case of corruption is Daniel Bell, "The Racket-Ridden Longshoremen," in his *The End of Ideology* (Glencoe: Free Press, 1960). There is no scholarly history of trade union corruption. For journalistic treatments, see Harold Seidman, *Labor Czars—A History of Labor Racketeering* (New York: Liveright, 1938), and Malcolm Johnson, *Crime on the Labor Front* (New York: McGraw-Hill, 1950). For a brief historical account, see my "Corruption in American Trade Unions," *London Political Quarterly* (July, 1957).

For two attempts at an economic analysis of trade union corruption, see Simon Rottenberg, "A Theory of Corruption in Trade Unions," National Institute of Social and Behavioral Sciences, Studies in Social and Economic Sciences, Symposia Studies Series No. 3 (Washington: 1960), and Paul A. Weinstein, "Racketeering and Labor: an Economic Analysis," *Industrial and Labor Relations Review* (April, 1966). The first concludes *inter alia* that corruption is most likely to be found in industries where there is no easy substitute for the labor class involved or for the product (not true of the trucking, culinary, longshoring, and building service industries), or where the demand for labor is relatively inelastic because the labor cost factor is small (the labor cost factor in the needle trades is high), or where the supply of labor is relatively inelastic because of the higher skills involved (not true of truckdriving, some of the culinary labor categories, the building services, and most longshore employment). The second article argues that "the larger the number of firms or the more difficult the control of entry (into an industry) the less likely is racket organization because of its expense." This cannot be reconciled with the experience in the garment, trucking, culinary, entertainment, longshoring, construction, and building service idustries.

On corruption in the building trades, see William Haber, *Industrial Relations in the Building Trades* (Cambridge: Harvard University Press, 1930); also Royal E. Montgomery, *Industrial Relations in the Chicago Building Trades* (Chicago: University of Chicago Press, 1927), and "Graft in the Building Trades," *Journal of Business* (October, 1926). On events in the garment industry, see Joel Seidman, *The Needle Trades* (New York: Farrar and Rinehart, 1942). On the activities of the Capone organization in the Hotel and Restaurant Employees, see Matthew Josephson, *Union House—Union Bar* (New York: Random House, 1956), Chaps. 10 and 11. On its support of Browne and Bioff in the IATSE, see Malcolm Johnson, *Crime on the Labor Front* (New York: McGraw-Hill, 1950), Chap. 2; Virgil Peterson, *Barbarians in Our Midst* (Boston: Little, Brown, 1952), pp. 230–235; Elmer T. Irey, *The Tax Dodgers* (New York: Greenberg, 1948), Chap. 14; and *Investigation into the Manner in Which the United States Board of Parole is Operating and as to Whether There is a Necessity for a Change in Either the Procedure or*

the Basic Law, House Committee on Expenditures in the Executive Departments, *Hearings* and *Report No. 2441,* 80th Cong., 2d sess. (Washington: 1948), *passim.* For its role in the promotion of George Scalise to high office in the BSEIU, see Johnson, *op. cit.,* Chap. 3; also *Theodore Canavaro v. Theatre and Amusement Janitors Local #9,* Superior Court File No. 292428, San Francisco, 1940.

For a comment on business unionism, see Philip Taft, "The Origins of Business Unionism," *Industrial and Labor Relations Review* (October, 1963). The point on "simple honesty" is made in his *Corruption and Racketeering in the Labor Movement,* p. 26.

There have been many Congressional and other public investigations of corrupt practices in industrial relations, far too numerous to list here. The two most important Congressional inquiries were those conducted by the Senate Committee on Labor and Public Welfare during the early fifties on welfare fund abuses, and by the Senate Select Committee on Improper Practices in the Labor or Management Field (McClellan Committee) in the late fifties.

Meany's statement on Cross is in *Proceedings,* AFL-CIO Convention (1957), Vol. I, p. 233. The Detroit Teamster's comment was made in a private conversation with the author, but it is hardly original; there are many versions of it about.

On business and white-collar crime, see E. H. Sutherland, "White Collar Criminality," *American Sociological Review* (February, 1940), and his *White Collar Crime* (New York: Dryden, 1949), p. 223. Harry Elmer Barnes told the Senate Committee on Commerce in 1934 that "Both crime and racketeering today have derived their ideals and methods from the business and financial practices of the last generation . . . the younger generation looked with envy, not at the bowed backs and wrinkled brows of their parents, but rather at the financial achievements of the American financial buccaneers who had made away with their millions, with little or no service to society" ("Crime and Crime Control: Digest of Hearings before a Subcommittee of the Senate Committee on Commerce" [Washington: 1934]). The statement by Reckless is in his *The Crime Problem* (New York: Appleton-Century-Crofts, 1955), p. 189.

The relationship between immigration and crime is discussed in *Report on Crime and the Foreign Born,* National Committee on Law Observance and Enforcement (Washington: 1931). The Committee reported that the foreign born "commit considerably fewer crimes than the native born" (p. 195). Discontent leading to crime comes with succeeding generations.

There is a large and fast-growing literature on corrupt or unethical practices in American business. See Mabel E. Elliott, *Crime in Modern Society* (New York: Harper, 1952). For the point that American business would be uncomfortable operating according to the standards popularly expected of American unions, see Frederic Meyers, "Dual Standard for Corruption," *Nation,* March 1, 1958.

The comment by the Committee on Ethical Practices is in *Proceedings,* AFL-CIO Convention (1957), Vol. II, p. 75.

Robert F. Kennedy's statement is in *Report to the President from the Attorney General on the Fight Against Organized Crime,* January 10, 1963 (mimeo). See also *Wall Street Journal,* January 29, 1964, on the same subject. The report of the President's Commission on Law Enforcement and Administration of Justice is discussed in *New York Times,* February 19, 1967. For a recent comment on alleged Cosa Nostra influence in unions, see Sandy Smith, "Mobsters in the Market Place," *Life,* September 8, 1967.

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by

Benjamin Aaron

Reprint No. 204

UNIVERSITY OF CALIFORNIA
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INDIVIDUAL EMPLOYEE RIGHTS AND UNION DEMOCRACY

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An aroused public concern over the creation and preservation of internal union democracy culminated in the passage of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). In an article written shortly thereafter, I raised the question whether the new law would protect minority interests within unions or whether its net result would be more authoritarian control of union government by its own bureaucracy and by instrumentalities of state power. After almost ten years, the answer to this question is still a mixed one; the law has achieved some of its avowed purposes and has fallen far short of others. However, a number of crucial judicial decisions—some interpreting the LMRDA, some involving other statutes—have substantially strengthened union power over union members and nonmembers for whom the union acts as exclusive bargaining representative. They have also reduced in some respects the options practically available to employees against their employers. In this paper I shall briefly discuss some of the more significant of these developments. Necessarily, my observations will be impressionistic; the subject is too broad and the time too limited to permit detailed analysis of any of the points I shall mention.

I have been asked to concentrate my remarks principally on Titles I and IV of the statute, dealing respectively with the union members' so-called "bill of rights" and union elections; and in these areas, with few exceptions, the development of the law has not, in my opinion, lived up to reasonable expectations.

Admission to Union Membership

A glaring defect in Title I of the LMRDA was that despite its focus on the rights of union members, it was silent on the right of qualified applicants to become members. This defect was partially remedied by Title VII of the Civil Rights Act of 1964.

Preoccupation with racial discrimination, however, should not cause us to overlook other impediments to union membership. Consider, for example, the practice of "filial preference," under which membership is available only to sons or close relatives of union members; is this form of exclusion ever justifiable, even assuming that it neither is consciously aimed at racial or ethnic minorities nor has the demonstrable effect of depriving them, as a class, of equal employment opportunities?

In a recent decision in *Phalen v. Theatrical Protective Union* the New York Court of Appeals has impliedly answered that question in the affirmative. It has refused to order the union to admit employees whom it represents and who are qualified to join but have been denied admission because of the "filial preference" rule, despite the fact that they must pay a portion of their earnings to the union in order to obtain employment. The "drastic remedy" of admission was rejected by the majority as "uncalled for" because there was no reason "to hold that labor organizations must open their membership to persons whom they would rather not admit to their company." A minority on the court took what I think is the better view that unions, armed with the power to act as exclusive bargaining agents, "are quasi-public organizations and ancient dogma, which described them as voluntary associations with unfettered control over their membership rolls, must be revised in the light of the realities of present day industrial life."

Denial of free access by qualified employees to membership in the union which is their exclusive bargaining representative substantially limits the meaning and social utility of the concept of union democracy. The issue transcends race; a public policy that specifically prohibits restrictive union admission rules of this type only when they are directed against racial and ethnic minorities seems to me both illogical and unjust.

Political Rights within the Union

Title I of the LMRDA guarantees to every union member equal

rights and privileges to nominate candidates and to vote in union elections. Title IV provides that a reasonable opportunity shall be given for the nomination of candidates and that every member shall be eligible to be a candidate, to hold office (subject to certain restrictions), and to vote for and support candidates of his choice without interference or reprisal. Obviously, these provisions are closely interrelated, but the unfortunate wording of the enforcement provisions in Titles I and IV and the narrow interpretation given them by the courts have led to their separate treatment and the consequent reduction of the effectiveness of both.

As interpreted by the courts, Title I rights may be enforced in a federal district court in an action brought prior to the election by the complaining members. Title IV rights, on the other hand, have been construed to come into play only after an election has been held, and at that stage only the Secretary of Labor has standing to sue to set aside the election and secure other appropriate relief, although he may do so only on the basis of a complaint and not on his own motion. Meanwhile, however, the challenged election is presumed valid pending a final decision, which may not be handed down until after those taking office in the challenged election have served out their full terms and a new election has been held. Although it has now been settled that the action brought by the Secretary to set aside the first election will not be rendered moot by the second election, the relief it can provide will usually be too little and too late.

The leading case involving Titles I and IV is *Calhoon v. Harvey*. There, plaintiffs sought to enjoin an election of officers of the National Marine Engineers' Beneficial Association (NMEBA). The constitution of NMEBA provided that no member could nominate anyone for office but himself and that no member could be eligible for nomination or election to a full-time office unless he had been a member of the national union for five years and had served 180 days or more of sea time in each of two of the preceding three years on vessels covered by collective agreements with the national or its subsidiary bodies. Plaintiffs contended that these requirements effectively deprived them of their Title I rights to nominate and vote; but the Supreme Court sustained the dismissal of the action.

The Court conceded that the result might have been otherwise if the combined effect of the eligibility requirements and the restriction to self-nomination were considered in determining whether Title

I rights had been violated. It held, however, "that possible violations of Title IV . . . regarding eligibility are not relevant in determining whether . . . a district court has jurisdiction under . . . Title I . . . ."

The decision in *Calhoon* is both perplexing and disappointing. As Justice Stewart observed in his concurring opinion, "there are occasions when eligibility provisions can infringe upon the right to nominate," and the Court "long ago [in the Texas Primary Cases] recognized the subtle ways by which election rights can be removed through discrimination at a less visible stage of the political process." Henceforth, he added, "simply by framing its discriminatory rules in terms of eligibility, a union can immunize itself from pre-election attack in a federal court even though it makes deep incursions on the equal right of its members to nominate, to vote, and to participate in the union's internal affairs."

Thus, by continuing to treat unions as private voluntary associations instead of as quasi-public organizations armed with substantial powers delegated to them by Congress, the Court has avoided the obvious analogies to the Equal Protection clause of the Fourteenth Amendment, as well as its own prior decisions relating to voting rights in public elections, and has virtually gutted from Title I of the LMRDA the crucial guarantees of the equal right to nominate and to vote.

Freedom of Speech; Libel and Slander

A provision in Title I of the LMRDA guarantees to union members the right, among others, "to express any views, arguments, or opinions," subject, however, to the union's right "to adopt and enforce reasonable rules as to the responsibility of every member toward the organization as an institution and to his refraining from conduct that would interfere with its performance of its legal or contractual obligations." There is an obvious tension between these individual and organizational rights, but in this one area—the principal exception to the general trend—the courts have liberally construed the statutory language to provide expanded protection for the union member's freedom of speech.

In the landmark case of *Salzhandler v. Caputo,* in which an officer of a local union was found guilty of libeling the local president and was dismissed from office and prohibited from participating in union affairs for five years, the Second Circuit held that "although libelous

statements may be made the basis of civil suit between those concerned, the unions may not subject a member to any disciplinary action on a finding by its governing board that such statements are libelous."

This decision has been attacked as unfair by some union spokesmen, but in my judgment it tends to enhance and protect internal union democracy. Libel and slander are reprehensible, but relief against them is best restricted to legal actions in the courts. The applicable standards should be similar to those applied by the Supreme Court in *New York Times v. Sullivan,* an action brought by public officials against critics of their official conduct: no damages should be allowed unless the statement was made with " 'actual malice'—that is, with knowledge that it was false or with reckless disregard of whether it was false or not." Because unions typically lack anything like an independent judiciary (the UAW Public Review Board is a conspicuous exception), their internal trials usually go against the man who is "fighting city hall" and the local decisions are almost invariably affirmed on appeal. Thus, an interpretation of the LMRDA such as that made in the *Salzhandler* case is essential if the debate of internal union affairs is to be, in the words of the *Times* opinion, "uninhibited, robust, and wide-open," and if "vehement, caustic, and sometimes unpleasantly sharp attacks" on union officials by their members are to be permitted, as I believe they should be.

If the LMRDA, as interpreted and applied by the courts, has in some respects fallen short of reasonable expectations that it would preserve and promote internal union democracy, the NLRA and the new federal common law have likewise been used by the courts in certain vital areas as instruments to suppress individual freedoms rather than to defend them. I shall mention only a few instances.

Discipline for Refusal to Heed Picket Line

The NLRA guarantees to all employees the right to organize, to bargain collectively, and to engage in concerted activities, as well as the right to refrain from any or all such activities. It is an unfair labor practice for a union to restrain or coerce employees in the exercise of those rights; but the statute expressly recognizes and protects the union's right to prescribe its own rules with respect to the acquisition or retention of membership. The problem is how to strike a balance between these competing interests.

In *NLRB v. Allis-Chalmers Mfg. Co.* the Supreme Court, by a divided vote, upheld an NLRB decision that a union did not restrain or coerce its members in violation of their statutory rights by fining them for "conduct unbecoming a union member" because they crossed a picket line during a lawful strike, in violation of the union's international constitution. The fines ranged from $20 to $100, and in one test case the union obtained a court order against the member for the amount of the fine. The Court unanimously upheld the rule against crossing picket lines during a strike and its enforcement by expulsion, but the minority drew the line at permitting the union to secure compliance with the aid of court-enforced fines. The majority emphasized that each of the fined employees had executed the pledge of allegiance to the union constitution and had taken the oath of full membership. It expressly refrained from indicating, however, whether the fines would be prohibited by the NLRA if they were imposed on those whose membership was limited to the obligation of paying monthly dues.

In my view the minority is right. Expulsion is a permissible penalty in this type of case, but the union should not have it both ways. Expelling a member deprives him of the benefits of union membership in consequence of his violation of a reasonable union rule; but imposing a fine, particularly a heavy one, may effectively prevent him from exercising his right not to engage in concerted activity. Moreover, I suspect that the union may have won a Pyrrhic victory in this case. If the Court should later decide that its ruling applies only to "full members," more employees will be inclined to participate only to the extent required by a Taft-Hartley union shop agreement. If, however, the Court extends the ruling to the latter group, employee opposition to any kind of union representation, spurred on by active employer propaganda, may well increase.

Employee Suits Against Unions and Employers

The rapid development of the federal common law governing arbitration and actions for breach of collective agreements has tended to deprive dissident union members and nonmembers of traditional remedies against employers and has substituted a new remedy, often more apparent than real, against unions.

At the risk of oversimplifying, I shall try briefly to summarize the present state of the law in this regard. If a collective agreement

provides a grievance and arbitration procedure, an employee must exhaust that procedure before suing the employer for breach of contract; that is true even though the employee seeks only damages and does not want to continue working for the employer. A decision by the arbitrator on the merits will not be disturbed so long as the arbitrator stays within the submission and bases his award on his interpretation of the collective agreement. If the union fails or refuses to process the employee's grievance through the grievance and arbitration procedure, the courts will not order the union to do so, nor will they compel the employer to arbitrate at the employee's insistence over the union's opposition.

The employee's principal remedy in such a situation is to bring an action against the union for breach of its duty of fair representation. But in any such proceeding the courts will give the union the benefit of a strong presumption that it acted in good faith, even though its action was detrimental to the interests of the complainant.

When the question is finally squarely presented to it, the Supreme Court will probably endorse a relatively new theory developed by the NLRB that unfair, irrelevant, or invidious treatment of employees by their exclusive bargaining representative constitutes an unfair labor practice.

However, in the recent case of *Vaca v. Sipes*, involving an action in state court by a discharged union member against his union for failing to carry his grievance to arbitration, the Supreme Court held that even if the union's alleged failure to represent the employee fairly did constitute an unfair labor practice, the matter would not lie within the exclusive jurisdiction of the NLRB. The employee could treat his discharge, said the Court, as a breach of contract by his employer and sue the latter under the Taft-Hartley Act.

So far, so good; but there is a catch. No action will lie against the employer for breach of contract, said a majority of the Court, unless the complainant can prove that the union had violated its duty to represent him fairly in the handling of his grievance. And as we have seen, there is a strong presumption that the union acted in good faith in this type of case. Thus, hypothetically, even when an employer discharges an employee in violation of the collective agreement, if the union mistakenly but in good faith refuses to process the employee's grievance to arbitration, the employee cannot successfully sue either the employer or the union, nor can he compel either one to arbitrate.

What, then, can the employee do? Presumably, he can file an unfair labor practice charge against the union based on its alleged failure to represent him fairly. The union's good faith would not necessarily be the determining factor in such a case; so it is at least theoretically possible that the NLRB might grant the employee some relief in situations in which a court would not. On the other hand, the Board's order against the union alone might not provide an appropriate remedy, and there are serious problems in trying to extend the unfair labor practice charge to include the employer if the reason for discharging the employee had nothing to do with union activity.

Thus, balancing the competing rights and interests of employees, unions, and employers in the administration and enforcement of collective agreements involves conceptual and practical problems of enormous complexity and importance. They cannot be solved simply by concentrating on questions of union democracy to which the LMRDA is addressed, important though such questions may be. It is no coincidence, I think, that of the issues covered in this paper, only that of union elections can be considered primarily a problem of internal union affairs; the others relate more broadly to the collective bargaining process.

Time does not permit me to elaborate the views on these issues which I have set forth elsewhere over the years. I do, however, have two thoughts I should like to leave with you. The first I have stated earlier in this paper: in the areas we have been discussing unions should no longer be regarded as private voluntary associations but as quasi-public organizations, subject to the same constitutional limitations that apply to any instrumentality of state power. Second, if collective bargaining can be made to work only by completely suppressing the rights and legitimate expectations of individual employees, it is hardly worth preserving. I do not say that this state of affairs now exists, but I have some fear that we are heading rather rapidly in that direction. Consequently, although concern about problems of union democracy is doubtless a continuing necessity, I believe that our principal attention should be directed toward preserving for the individual employee—union member and nonmember alike—as many options as possible in protecting his rights against the inevitable encroachment upon them by big management and big unions.

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1970
Internal Union Democracy

Union Democracy in Action

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No. 37

Who will investigate the investigators?

Yablonski murders point up the need for a look at the U.S. Labor Department

At the end of May, 1969, Joseph Yablonski announced that he would run as an insurgent for president of the United Mine Workers of America. Eight months later he was dead, murdered in his home, along with wife and daughter, by gunmen. Their death proves how dangerous it still is to exercise the rights of union democracy which were written into federal law ten years ago. How to make those rights a reality? Or, must others die before that question is faced?

"Moral Complicity"

Three men have been arrested for the murders but, at this moment, we do not know precisely who hired them; we can only guess. When asked if he thought the crime was related to the internal union battle, Joe Rauh replied bluntly, "Of course.', He charged that the Labor Department's "icy indifference" to Yablonski's complaints and to the threats and acts of violence had "contributed to the death" of Yablonski by leading "the most lawless elements to believe that the Yablonski group was defenseless." In his January 8 column in the New York Post, James Wechsler accused Washington officials of "moral complicity." Can such charges be dismissed as a wild and bitter exaggeration? Let's think about that.

Hired killers are not dispatched in a madman's sudden burst of passion. Those who instructed the assassins acted deliberately, with calculation. The only defense against organized murder is to make clear that the crime will be difficult and expensive, that the intended victim will be protected, that the government will react swiftly and massively. If the would-be killers are to weigh the value of the murder against its costs, responsible authorities must proclaim their presence demonstratively. When these authorities show no sign of special interest, the murderers get the go-ahead signal.

"Icy indifference" in 'Frisco

It was precisely this kind of "icy indifference" which led to the 1966 murder of Wilson and Green in San Francisco. Reformers in the Painters' union, led by these two men, had demanded a full investigation of a union welfare fund. The Labor Department shrugged it off and a year passed. Meanwhile funds were being embezzled by a corrupt union official and crooked employers. To silence the reformers, the embezzlers killed their two leaders. (The murderers are now serving life sentences.) Through all this, the Labor Department slept. On May 16, 1966, ten days after Green was shot to death, Morris Evenson, head of Painters Local 4, San Francisco, wired the Secretary of Labor;

"Over a year ago, your San Francisco office received complaints from members of Painters Local 487 on the handling of funds by the Trustees of the Sacramento Trust Fund. . . . If your office had moved . . . these two men would not have been murdered." Familiar?

Yablonski suffered the same fate for the same reason, foot-dragging by enforcement agencies. Rauh told Attorney General Mitchell that, "history might have been different if Yablonski and his allies had received any significant aid from the Justice and Labor Departments in their fight against the corruption and tyranny of the Boyle machine." (report by James Wechsler)

There was more than ordinary bureaucratic laxity, there were policy considerations in that indifference. Leaders of the miners' opposition knew they faced violence and possible murder. "They gotta kill me to get me out," said Yablonski in July. A few days before, after addressing a miners' meeting, he had been knocked unconscious and almost killed by a karate chop to the back of the neck. (The next day, a Yablonski rally was broken up by disrupters.)

Justice Department

After the attack, Rauh called upon the Justice Department for protection to Yablonski. The request was ignored; instead the Department simply reported that it would ask the FBI to conduct a "preliminary inquiry" which, if it was actually ordered, never got anywhere. According to the *N.Y. Times* on July 3,

"Justice Department officials said they were aware of 'the explosive political situation' within the union and were determined 'not to be used' to promote any union candidacy."

Translated into practical political English that meant the Justice Department would not risk the displeasure of a powerful labor leader, Tony Boyle, by pressing the inquiry too hard, if at all. It was obvious in advance to any killer that their victim would be easy to pick off. The night he was shot, Yablonski made a desperate lunge for a shotgun he kept near his bed. Too late. The police protection that would have saved his life was never there.

A West Virginia doctor who supported Yablonski tells of early efforts to interest the Justice Department,

'We went to the Justice Department, too. All we wanted them to do was announce they were sending in observers. Hell, they didn't even have to do it. Just announcing it would have helped. John Mitchell didn't even return our calls." (from *Life* magazine.)

The Labor Department

Mike Trobovitch, a Yablonski campaigner, tried to move the Labor Department,

"I sat in the office of one of the Secretary of Labor's assistants on the morning of October 27 and I told him—*I told him*—that if they didn't do something to keep this election fair, that either Congressman Hechler or Jock Yablonski was going to get killed. He was listening to me with a pad in front of him and he didn't write down a goddamned thing." (from *Life*).

Yablonski's courageous fight succeeded in uncovering the scandal of the mining industry. The Yablonski murder should expose the scandal of the U.S. Labor Department. To save itself, it has agreed, reluctantly, to investigate the UMW elections. But who will investigate these investigators? There is need now for something more, for a full-scale Congressional investigation of the role of the Labor Department in the UMW election campaign as one phase of its ten-year role as an enforcement agency under the Landrum-Griffin Act. If Yablonski's death leads to that, it will, perhaps, save other union reformers from death at the hands of other assassins.

Miners were 10-year victims of Labor Department policy

Under the Landrum-Griffin Act, the U. S. Labor Department is charged with heavy responsibility for enforcing the law's provisions for fair union elections. A Supreme Court ruling has assigned the Secretary of Labor such exclusive powers that rank and file complainants are virtually helpless, at law, without him. Meanwhile, the Labor Department sabotages the law. That's a harsh statement, admittedly, but accurate. Two weeks before he was killed, Yablonski put it bluntly, on the basis of his own experience, charging that the Act, as interpreted by the Labor and Justice Departments had become "only a paper law."

Miners under illegal trusteeships

For ten long years, miners were among the chief victims of Labor Department policy. Nineteen of the union's 23 districts are under international trusteeship, which means that whole district officialdoms are appointed (and paid) from above, including most representatives on the union's top ruling Executive Board. By such devices, the UMW officialdom became a self-perpetuating oligarchy, torn loose from membership control. (To fill out the picture, Yablonski, Nader, and others charged that at least 400 locals are paper organizations which are illegally represented at conventions.) To restore democracy to the UMW, the trusteeships must be lifted, and self government restored to the districts.

When the Landrum-Griffin Act went into effect in 1959, that's over ten years ago, it provided that union trusteeships are to be presumed invalid *after eighteen months.* UMW districts had been under trusteeship for years, some for decades. They remain under trusteeship today, despite the law, despite the passage of those ten years. Compared with the pace of democratization, complete standstill, Southern school desegregation has scudded along dizzily.

Creeping for five years

The Labor Department creeps along. For five years, it did nothing, explaining its desertion of duty to the miners by a preference for "voluntary compliance" over court action. After waiting five years, during which the UMW showed no signs of "voluntary compliance," the Department filed a federal suit which is still moldering in court. That indifference was a ten-year prelude to murder.

Along comes Yablonski to shake sleeping bureaucrats out of their torpor. Even though he had Joe Rauh, Congressman Hechler, and Ralph Nader on his side, Labor Department clerks told him to go away. (Think of the ten-year parade of lonely union reformers who came by themselves.)

The nomination campaign

After announcing in May, Yablonski's first hurdle was to win the nomination; and for that, his slate had to be endorsed by at least fifty local unions. In a union under oligarchical trusteeship control, that was rough.

During the nominating campaign, he was knocked unconscious. Joe Rauh filed three separate, detailed complaints with the Labor Department, charging "massive," "flagrant," and "continuous" violations of the law by UMW officials. He accused the UMW administration of using union funds to promote its own slate, of threats of violence and death against Yablonski men. He said that small locals in Yablonski's home District 5 had been dissolved so that they could not nominate him while pro-administration locals with fewer than 20 members were permitted to exist in districts where they would nominate the Boyle ticket. He charged that voting at many nominating meetings had been fraudulent, that there had been attempted bribery and intimidation of insurgents.

> On January 16, Senator Harrison A. Williams, Chairman of the Senate Labor Subcommittee, asked for an accounting from Secretary of Labor Shultz adding these words, "Published reports do not reflect with satisfactory clarity the course of action your department has taken from early developments in the matter to the present."
>
> It was a delicate diplomatic understatement. From start to finish, in this case as in others, the Labor Department has evaded its lawful responsibilities and has undermined and sabotaged law enforcement.

Despite the obstacles, the opposition leader was nominated by the vote of 96 locals, which he called a "miracle." Meanwhile, the Labor Department rejected Rauh's request for an investigation. Why? After three murders, it must surely be compelled to reply.

After the nominations

After Yablonski had won the nomination, he filed a fourth complaint with the Labor Department, bringing the alleged violations up to more than 100 incidents, many supported by affidavits. The fourth was stored along with the three others in the Department's voluminous bins.

As the campaign—really a small-scale battle—unfolded, there was more of the same. Every right had to be established the hard way. Earlier Yablonski had been fired from a union job; he had to sue for reinstatement. Again, a suit to get access to the membership lists, although the right is written into the law; and then again, to stop the official *UMW Journal* for serving as a Boyle public relations organ.

American Civil Liberties Union

The American Civil Liberties Union publicly expressed concern over the charges that democratic rights were being violated. It called for guarantees of a fair election and alerted its affiliates to be ready to handle complaints from UMW members. In Federal Court in November, John Owens, UMW Secretary Treasurer, reported that the number of ballots mailed to each local exceeded its total membership by ten percent. And, on top of that, he had ordered the printing of an extra 50,000 ballots, just to have around. There was no reasonable explanation of why ballots had been furnished with so lavish a hand.

During the actual election on December 9, the Yablonski forces tried to cover as many locals as they could, but they couldn't be everywhere. In some areas, they feared for their lives. Voting took place on the same day in 22 U.S. states and four Canadian provinces. Ballots were marked and counted in the locals. Only tally sheets were mailed to Washington where the tabulation was announced by official tellers, all administration supporters. The figures, they said, showed that Boyle had won by 80,618 to 45,515.

Some results

Yablonski ran strong in most districts, carrying three of the 25. Some of the results, on their face, are rather odd. In District 19 (Kentucky-Tennessee) Boyle got 3,723. Only 87 were reported for Yablonski. District 22 (Utah-Wyoming), Boyle was reported to have received 1,873 and Yablonski only 111. A few others reported similar lopsided Boyle majorities.

On the basis of reports from his watchers, Yablonski called the event "the most dishonest election in the history of the

American labor movement" adding "if the Labor Department had assumed its duty and supervised the election, Boyle would have been defeated." He demanded an immediate election; and, with a sense of urgency, called upon the Labor Department to impound the ballots.

"Please," he urged, "don't give Boyle time to juggle the records or destroy them."

As usual, the Department brushed aside the appeal and refused to intervene. There was, it insisted, not enough "evidence," an absurd contention since it had refused to check out the long list of complaints already before it. In any event, it reminded Yablonski, he had to wait those ninety days to exhaust his internal remedies. What would happen, in the interim to those sacks of ballots? The Labor Department would not bother about that.

"Reconsidering the evidence"

On January 5, the three bullet-riddled bodies, already decomposing, were discovered; they had been shot four or five days before. Secretary of Labor Shultz had something new to think about; and, three days, later on January 8, after agonizing over it, he announced that he had "reconsidered the evidence," the same evidence which he had found inadequate in mid-December, and was ordering an election investigation.

"The theory in the department, "reported the *N.Y. Times,* "is that Mr. Yablonski's death makes the statutory waiting period a moot point."

It was a curious "theory," not based on law, not based on logic, but simply an effort to save the Department from a public relations disaster. If Yablonski's death makes waiting "moot," what good will the investigation do him now? His remedies are even more "moot."

Shultz agrees to investigate only because he would be plunged into a national scandal if he persisted in the original refusal. The press is following the action, 20,000 miners were on strike, Congressmen are beginning to notice. Still, one might ask, if the Labor Department in its niggling fashion has at last hit upon a convenient pretext for entering the case, why quibble? Why? because Yablonski died for union democracy, and the Labor Department is maneuvering to conceal its long record of undermining union democracy. When all this is over, the Department is quite capable of going back to business as usual. It is capable of nothing else.

Miners experience not unique

The kind of events which unfolded during the months of Yablonski's campaign were not unique to the United Mine Workers, not even the murders. Internal reform movements, repression, charges of election fraud and misuse of insurance moneys, beatings, and even murder have been an important part of contemporary labor history and current events.

Other men like Yablonski, fighting for union reform and democracy, have faced—and still face—an array of repression and fraud; but their ordeal takes place in dark corners. If occasionally their plight momentarily surfaces to public attention, it is soon forgotten. If not for the notables who supported him and the union's strategic position in the public spotlight, Yablonski, too, might have been ignored and forgotten. Who, for example, remembers Dow Wilson and Lloyd Green, reformers in the Painters' union who were murdered in 1966. Who bothers about the fight that still continues in the Painters union?

Some will shy away from these truths for fear of discrediting the labor movement. But we are not talking of misdeeds by the unions. These events are evidence of a critical danger to unions, their invasion by alien elements, by thugs and racketeers who want to use the labor movement for criminal, anti-social aims of their own.

"On Capitol Hill, there were also demands for an investigation of the U.M.W. that would go far beyond the disputed election. Senator Robert P. Griffin of Michigan, the assistant Republican minority floor leader, who was an author of the Landrum-Griffin Act, wrote to Senator John L. McClellan of Arkansas, chairman of the Permanent Investigations Subcommittee, 'strongly urging' a full-scale investigative review under all aspects of the act." (*N.Y. Times* 1-9-70)

Why investigate only the union? Why not the Labor Department as well?

How D of L evades the law

In line with an unwavering policy, the Labor Department does nothing during an election but waits until the whole thing is over. Even then, they told Yablonski, he would have to wait until he had exhausted his internal "remedies," or wait at least 90 days, after the election was completed. In other words, before the Department would make a move, Yablonski had to seek justice from the same officials who were tormenting him. That's what the Labor Department told Yablonski.

But what does the law say on the subject? Section 601 provides:

"The Secretary (of Labor) shall have power when he believes it necessary in order to determine whether any person has violated or is about to violate any provision of this Act . . . to make an investigation and in connection therewith he may enter such places and inspect such records and accounts and question such persons as he may deem necessary to enable him to determine the facts relative thereto."

The Secretary refuses to use those powers? Why? He will not and he does not deign to explain. That's all there is to it. The explanation is doubtless rather simple. If he investigated he would antagonize incumbent officials, he might find something wrong and then he might be compelled to do something about it. Better not start.

Liberals who aided Yablonski

In eight months, Jock Yablonski's crusade—it was nothing less—won the prompt support of prominent public figures: Ralph Nader; Ken Hechler, Congressman from West Virginia; Joseph Rauh, Vice Chairman of the Americans for Democratic Action, who became Yablonski's attorney. Like the insurgent mine leader, they and others were outraged at the position of America's miners and carried the issue effectively to the public, speaking of arrogant disregard for mine safety, proliferation of miners' black lung disease, manipulation and milking of pensilon funds, collaboration bordering on collusion between mine owners and union officials against miners' interests, repression of union democracy, debasement of a union, loss of pension and welfare rights by many miners and their widows.

Publisher: Democracy in Action **February 1970**
Editor: H. W. Benson
31 Union Square, New York, N.Y. 10003

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"Union democracy most important issue," said Yablonski

There was nothing spectacular in Yablonski's printed program. He didn't propose to revolutionize the mining industry; he didn't clamor for anything novel. He merely wanted the United Mine Workers to behave like any genuine union that represents its membership, sensitive to their needs, subject to their control. His death reminds that in some unions men must die for what is taken for granted in other unions. The Yablonski platform could be summarized under these headings, each accompanied by detailed practical proposals.

1. Internal union democracy
2. Health and safety
3. Pension and welfare benefits
4. The miner as a member of the community
5. Grievance procedure

In summary, he asked the miners' union to act like a miners' union, accusing the incumbent Boyle administration of betraying the basic interests of the dues-paying membership.

This is the gist of what the Yablonski insurgents were saying:

- Because the officials of nineteen district are appointed and not elected by the membership, they ignore the members, fail to process grievances, and "romance" the employers. The insurgents called for a restoration of district autonomy, the election of all District officers, and "complete freedom of speech without fear of retaliation."

- Although the miner's Welfare and Retirement Fund is a "remarkable achievement," many miners work a lifetime and never get a pension. "Tony Boyle . . . has turned a deaf ear to the pleas of thousands of retired and disabled coal miners and their families" who are denied their pensions "because of technicalities in the Fund's rules." The royalty of 40c per ton paid by mine owners into the Fund has not been increased since 1952. Yablonski demanded an increase to 60c to finance sumstantial improvements, including an increase in pensions to $200/month.

- One out of every 300 miners is killed in accidents each year; others are disabled by lung diseases or die from its effects. Hazards to health and safety are intensified by new mining methods. But the union officialdom, too closely tied to the owners, has abandoned the fight to protect the miners. Yablonski called for a complete revision of the basic industry contract and an intense drive by the union for legislation to safeguard workers from accidents and disabling diseases.

- "Unions represent men and women who are part of communities and citizens of state and a nation." The UMW must take up the social issues that affect miners as citizens: schools, taxes, decent government, pollution, social services. Yablonski called for a "broader vision of a Union's responsibility."

UMW President W. A. "Tony" Boyle replied that he had voted in June, 1969, to raise pensions from $115 to $150/month when he became a Fund trustee to replace John L. Lewis. (Yablonski attributed the increase to mounting opposition inside the union.) Boyle pointed to the union's campaign for safety legislation. (Nader and Hechler retorted that the union had ignored the issue until they had already made it a public scandal.)

Most of all, Boyle came forward as the legitimate heir of John L. Lewis. When Lewis retired in 1960 and Thomas Kennedy became president, Boyle became vice president; and when Kennedy died in 1963, Boyle succeeded to the top job. The character of the miners' union, and of its officialdom had been shaped under Lewis; the pension fund setup and the district trusteeships were his creations. Under the protective shelter of the Lewis mantle, Boyle told miners that Yablonski was not really attacking him (Boyle) but was slandering and besmirching the name and tradition of their illustrious former president.

Yablonski did not create the miners' mounting discontent with their union officials, he gave it leadership and directed it toward a fight for union reform.

Association of Disabled Miners and Widows

In August last year, 78 miners and miners' widows filed a damage suit in U.S. District Court against the union, the Welfare and Retirement Fund, and a union-owned bank. The suit was backed by the 4,000-member Association of Disabled Miners and Widows which had been formed in 1966, long before Yablonski appeared on the scene as an insurgent. The Association represented miners in their claims against the union and the Fund. The federal suit charged that the assets of the Fund were being "plundered" and that the membership was being defrauded. It called for a federal receivership to protect the $179 million Fund. Yablonski had not instigated the action; but he commended the complainants for taking the initiative.

The black lung movement

After 78 men were killed in a mine explosion at Farmington, West Virginia, on November 20, 1968, U.S. Representative Ken Hechler and three local doctors organized a campaign for mine safety, proposing a law to limit permissible dust levels in mines. By then, the black lung disease, caused by breathing coal dust, had reached epidemic proportions, permanently disabling many of its victims and killing others. Only Pennsylvania made black lung a compensable sickness; in other states, miners became destitute when they got sick.

Up to 1968, the union's newspaper made not even a reference to the problem. A rank and file miners' movement sprang up, without help of the union, organizing mass demonstrations for governmental action. Early in 1969, miners marched past the UMW headquarters in Charleston, West Virginia, and booed their union.

Protest strikes

In December, when President Nixon hesitated over signing a mine safety bill that would at last give federal benefits to disabled men, 1,200 West Virginia miners walked off their jobs in protest. They went back to work after he signed the bill on December 29.

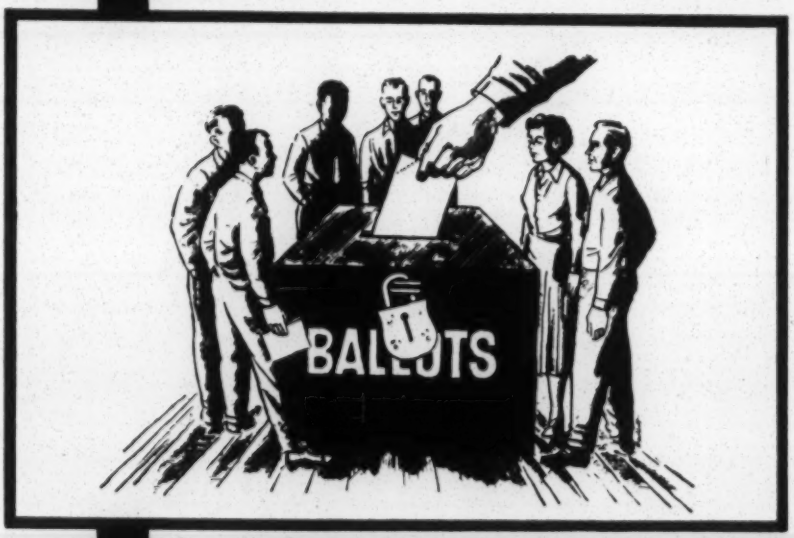
The missing element

Yablonski's candidacy added the one missing element which alone gave hope for a lasting victory. The outside crusader, the Congressmen, the rank and file protest movements, in combination, could arouse revulsion against death and disease lurking in the mines. They might even win relief in the courts and legislatures. But public indignation subsides, reformers come and go, protests are heard and forgotten, laws and court rulings are evaded.

Workingmen need unions to enforce the laws and provide continuing protection. The erosion of working conditions in the coal fields was linked to the state of the miners' union. When Yablonski challenged the UMW officialdom, there was hope for the return of a powerful fighting force to defend miners. The key to the struggle was the union; and the key to the miners' union was internal democracy. Late in 1969, in a letter to Boyle, Yablonski wrote,

"Union democracy is the single most important issue in the campaign for election of a new UMW president. I challenge you to grant full democracy to the UMW by removing your autocratic grip on the districts.'"

GUIDE FOR UAW



LOCAL UNION ELECTION COMMITTEE

GUIDE

FOR

LOCAL UNION ELECTION COMMITTEE

The UAW Constitution is the living law of our Union. It guarantees basic trade union rights to all members. It is intended to protect equally the rights of individual members, and of the Union as a whole.

The most important of these trade union rights is the right of the membership to fair, democratic election procedures in all instances when they vote to choose their officials. In order to guarantee this right, the UAW Constitution provides basic regulations for the conduct of elections for Local Union Office, Convention Delegates and Stewards and Committeemen.

This booklet should help Local Unions to carry out the constitutional and legal provisions which regulate elections.

In some cases, the comments contained herein reflect constitutional language, or official interpretations of constitutional language. In most cases, however, the recommended details of election procedure can be varied by Local Unions without violating constitutional provisions or official interpretations so long as the basic thinking reflected in the recommendations is followed.

This booklet may not be used as a substitute for constitutional interpretations if a Local Union finds it necessary to decide whether a particular element of its election procedure is or is not constitutional.

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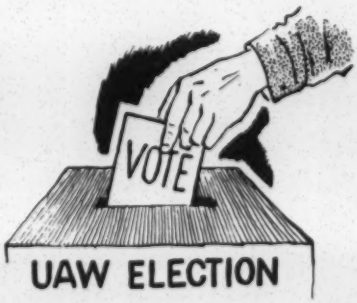
SECTION 1

The Election Committee

The Constitution provides that each election (except for Shop Steward and Committeemen elections—see page 24) conducted by a Local Union **must** be held under the supervision of a democratically elected Election Committee. The Election Committee may be a standing committee which serves for a specified term, in which case it would supervise all general elections held during its term, or a special committee chosen by the Local Union to supervise a particular election. In either case, the Election Committee **must** be democratically elected by the membership of the Local Union. The vote for the committee should be by secret ballot at a membership meeting. In the case of an Amalgamated Local Union having a constitutionally established Joint Council, however, the Election Committee should be elected in the same manner by the membership of the Joint Council. It is recommended that at least seven (7) days notice be posted of the meeting at which the Election Committee is to be elected. The Election Committee shall include only the members elected thereto. The President of the Local Union may **not** serve as an ex-officio member. No member of the Election Committee shall be eligible to run for office, or to serve as a challenger for a candidate for office, in any election which the Committee supervises. A member of the Election Committee who wishes to run for office in an election which that Committee will supervise, must, immediately subsequent to nominations for that office, resign from the Election Committee.



The Election Committee shall have complete charge of the elections. It shall be responsible only to the Local Union membership. Its action shall be governed by the International Constitution, the Local Union By-Laws, and the instructions given by vote of any general membership meeting held prior to the election. All details regarding the conduct of elections, such as preparation of ballots, procedure for voting, etc., (unless determined by membership action) shall be made by the Election Committee except in those cases where this booklet indicates membership action is necessary. Examples of the type of decisions which requires membership action: the choice between paper ballots and voting machines, or the decision to hire or not to hire a certified public accountant or other outside agency to conduct balloting, or the date, time and location of the election.

The Election Committee is obligated to obtain approval from the Local Union for any lost time that might be incurred, and for any expenditures necessary for the proper conduct of the election, in the same manner and in accordance with the same procedure as any other committee of the Local Union. The Local Union Executive Board is obligated to approve as much lost time as is **necessary** for the Election Committee to prepare for and conduct the election, as well as to approve expenditures which the Election Committee recommends as necessary to insure proper operation of the election machinery.

SECTION 2

Procedure for Electing Local Union Executive Officers

A. SETTING THE DATE OF THE ELECTION

The Constitution requires that Executive Officers shall be elected for two-year terms during the month of May or June unless special permission is given the Local Union by the International Executive Board to conduct the election before or after this two-month period. The Local Union should, either through its By-Laws or by membership action in advance of the election date, establish the date or dates of the election. The membership must set the date and time of the election. At least seven (7) days shall elapse between the closing of nominations and the beginning of the election.

B. NOTICE OF ELECTION

Notice of each regular biennial election of Local Union officers must be given by the usual posting on all available bulletin boards, etc., at least 15 days in advance of the election. The notice should include the place and date of the election and the times when the polls will be open. It is advisable that the notice also contain the same information on any run-off election which may be necessary for any office where a candidate does not receive a clear majority of all votes cast in the

general election. If this is not done, it will be necessary to wait at least for 15 days following the general election before holding the run-off election so that the proper notices of this election may be posted for the full 15-day period. If, however, the original notice contains the information on a possible run-off election as recommended, it will only be necessary to post on bulletin boards a simple statement that a run-off election for certain offices is necessary and will be held pursuant to the schedule on the original notice. The only requirement for this posting will be that it be up a sufficient number of days so that the membership would be generally informed that the run-off election was to be held.

In addition to the posted notices, the new Labor-Management Reporting and Disclosure Act requires that a notice containing the same information be mailed to the last-known home address of each eligible member at least 15 days in advance of the election. This mailed notice should also contain information concerning a possible run-off election to avoid the necessity of a second mailing if such a run-off election should be necessary.

The mailed notice may be put on a postcard or, where the Local Union has a newspaper which is mailed to the membership, the notice may be placed in a prominently displayed box on the front page of the paper.

It isn't necessary to send the 15 day mailed notice for a special election to fill a vacancy in an executive office for the unexpired term. However, it is still necessary under our Constitution to post the usual notice for 15 days.

C. NOMINATIONS AND ELIGIBILITY

Not before April 1st of the year in which elections are held, the Local Union shall conduct nominations at a regular or special membership meeting. The membership must be given at least 7 days advance notice (by posting or by some other appropriate method), of the fact that nominations are to be made at this meeting.

At the nominating meeting, any member in good standing may nominate himself or any other member for any office. No second shall be required nor shall any action of the membership be necessary.

A Local Union may not require a member to be present at the membership meeting in order to accept nomination.

The notice of the nominating meeting to the membership shall provide for a specific period of time during which a member who is nominated must accept his nomination in writing unless he has orally accepted at the nominating meeting. Further, the notice of the nominating meeting should instruct members as to whom or to what address to submit written acceptance. This period of time should not be less than three (3) days nor more than seven (7) days. In either event, the

notice of the nominating meeting should specifically contain the information as to the deadline for acceptance of nomination.

Local Unions are free to adopt an alternative method of nominating whereby notices are posted in the customary manner announcing that all members are automatically nominated for all offices and requiring members who wish to accept nomination to indicate their intentions in writing in the manner prescribed in the notice of nominations. The notice must announce the deadline for acceptance and the person and address to whom the acceptance should be addressed.

After the deadline for acceptance of nominations, the Election Committee must check the membership records of all nominees in order to determine whether or not the nominee was in continuous good standing for one year immediately preceding the nomination. A member who originally declines a nomination can subsequently change his mind and accept the nomination, providing he makes this fact known to the Election Committee prior to the deadline for accepting nominations.

A member who holds a withdrawal card during the qualification year thereby usually interrupts his continuous good standing and disqualifies himself for running for executive office. There are, however, two exceptions under which a member who has taken a withdrawal card during the qualification year would not interrupt his continuous good standing and would still be qualified to run for executive office. They are:

1. Where the member has redeposited his withdrawal card in the Local Union in the same month in which it was issued.

2. Where a laid-off member has taken a transfer to another UAW Local Union, deposits his withdrawal card in the second UAW Local Union and within a period of one year from his layoff, returns to his original Local Union depositing a withdrawal card from the second Local Union where he temporarily worked.

All candidates must have been nominated and must have submitted acceptances. Write-in candidates are not permitted.

D. LOCATION OF POLLING PLACES AND HOURS OF VOTING

The number of voting locations will vary with the size and structure of the Local Union. The number and location of the polling places must be set by By-Law or membership action. A sufficient number of locations should be provided to insure every member a convenient opportunity to cast his vote. Usually it is advantageous to locate the polling sites near the place of work. Holding Local Union elections on

company property is not unconstitutional so long as the Local Union conducts the election in a completely independent manner, free from any company interference.

The number of ballot distribution, or voting machine check-in points within a given voting location again must be determined on the basis of the number of members expected to use that location and the distribution of those members by shifts which will determine the concentration of membership voting in particular periods. Every effort should be made to minimize the time a member must wait in line to cast his vote.

Unless provided for by By-Law or by membership action, the Election Committee shall determine the period, or periods, on the election day, or days, during which each voting location shall be open. These locations shall be open as long as necessary to provide each member an opportunity to vote outside his working hours. When locations are set up near the place of work, the hours during which they should be open will depend upon the number of members expected to vote during each shop period as well as the location of voting site. It is important that the details of location and hours be included in the seven (7) day notification of nomination which is discussed in Section 2 (B) of this booklet. All members waiting in line to vote at the hour when the voting location is scheduled to close, either temporarily or at the conclusion of the election, shall be allowed to cast their votes.

E. INSPECTION OF MEMBERSHIP LISTS

The new Labor-Management Reporting and Disclosure Act requires that candidates for executive office have the right to **inspect,** within 30 days of an election, a mailing list of the membership of any Local Union covered by a union security provision. This right of inspection **does not** include the right to copy. The Local Union should, therefore, insist that any such inspection which a candidate may request take place in the presence of an officer or office employee of the Local Union, and that the candidate inspecting the list should not have any pencil or paper in his possession while so inspecting.

The Local Union may require a candidate wishing to inspect the list to make his inspection at a time and place reasonably convenient to the officers or office employees of the Local Union, but the Local Union must be careful to insure that it does not effectively deprive a candidate of his rights by specifying unlikely hours or places which would, in practical effect, result in the member not having a real right of inspection.

Under no circumstances, should a copy of the list be made available to any candidate or any other member. The membership mailing list is to be used only for the official purposes of the Local Union.

It is not necessary to send the 15 day mailed notice for a special

election to fill a vacancy in an executive office for the unexpired term. However, it is still necessary under our Constitution to post the usual notice for 15 days in compliance with Article 38, Section 2, of the International Constitution.

F. THE BALLOT OR VOTING MACHINE

Whether elections are conducted with paper ballots or on voting machines is a decision that must be made by the membership, either through By-Laws or by adoption of an appropriate motion at a membership meeting. All candidates running in an election must be listed on the ballot or voting machine. No provision should be made for write-in candidates since such candidacies are not permitted.

(1) Paper Ballot

If the membership decides that the election shall be conducted with paper ballots, the Election Committee shall design a ballot and make arrangements for its duplication.

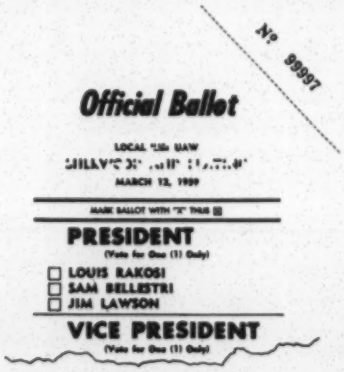
Where there are more candidates for any office than there are vacancies, the Election Committee, unless the membership shall have made a decision, shall determine whether the names shall be placed on the ballot in an order determined by lot or whether they shall be systematically rotated in the duplication of the ballots.

If the decision is to place the names on the ballot in an order to be determined by lot, the Election Committee shall set a date, place and time for the lottery. Each candidate shall be notified, and shall be entitled to attend the lottery or to designate a representative to do so. The Local Union will not be obligated to pay any of the candidates or their representatives for attendance at the lottery and the Election Committee insofar as possible should schedule the lottery outside of working hours. As an example of how this lottery should be conducted, assuming that 4 candidates have been nominated for the office of President, the Committee would place the 4 names on uniform slips of paper. The papers would be folded and placed in a container. One member of the Election Committee would be blindfolded and would withdraw the slips of paper from the container one at a time. The order in which the names are withdrawn would be the order in which the candidates for the office of President would be listed on the ballot. This process would be repeated for each office for which there were more nominees than vacancies.

If systematic rotation is to be used, the Election Committee should arrange for each candidate's name to appear in each rotated position

the same number of times as each of his opponents. For example, if there are 4 candidates for President, A, B, C, D, and a thousand ballots are to be printed, the order of names should be changed so that each name appears 250 times in first place, 250 times in second place, 250 times in third place, and 250 times in fourth place. Each of the other candidates would also appear in each position an equal number of times.

When the rotation system is followed, the ballots must be distributed to voters in such a way as to make the rotation effective. Thus, following the example given above, the ballot given to the first voter would list candidate A in first position; the second ballot would list candidate B in that position; the third would list candidate C in the first position; and the fourth would so list candidate D. The order of rotation would, of course, thereafter be followed with all ballots.



The accompanying illustration indicates the preferred way of setting up a paper ballot for these elections. If the Local Union intends to use more than one voting location, it is strongly recommended that the paper ballots be numbered consecutively with the numbers appearing on a perforated corner of the ballot in such a way that the corner with the number can be torn off the marked and folded ballot when it is deposited in the ballot box. It is also important, as is indicated in the illustration, to group all candidates for a particular office in a separate area of the ballot where clear bold-face printing indicates the office for which they are running. Since occasionally a typographical error will result in an improper spelling of a candidate's name or some other error in a ballot that might prejudice a particular candidate, it is important to **carefully** proof-read the ballots so as to make certain that all candidates' names appear on the ballot in the form submitted in acceptance to the Election Committee.

Ballots should be so arranged as to provide sufficient space between the names of the candidates. The box adjacent to the name should be large enough so as to make voting as easy as possible with a minimum possibility of error.

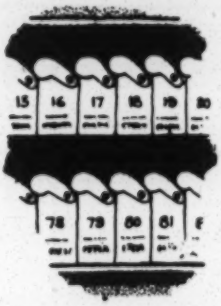
Under the present Constitution, a Local Union will elect all three Trustees for two-year terms (except that Locals which elected one or more Trustee in 1958 will not commence to elect all three Trustees biennially until 1962). The three Trustee positions should be treated as a single office and the ballot should instruct the membership to vote for not more than three of the nominees for Trustee.

If more than one ballot is being used in the Local Union elections, it is important that the ballots be of different colors.

Where paper ballots are used, the Election Committee shall order a number of ballots in excess of the amount which past experience in-

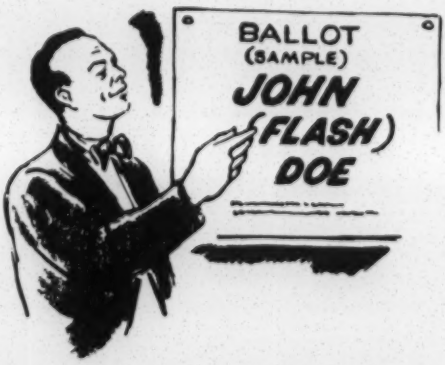
dicates is likely to be required. It is most important that a substantial safety margin be allowed since a shortage of ballots jeopardizes the entire election. At the time the vote tally is made the number of ballots that have been printed or mimeographed should be made known to all members of the Election Committee, and all candidates or challengers who are present.

(2) Voting Machines



If the Local Union membership decides that voting machines shall be used, the choice of ballot position again is between a lottery and a rotation system. If it is decided to use a lottery system, the same procedure as explained above for paper ballots can be used and the names will appear on the voting machine in the order in which they are drawn. If a rotation system is used, it can only be effective to the extent the Local Union uses two or more voting machines and then only insofar as names are rotated between the two or more machines. It is impossible to rotate names on a given machine during an election. If, as will usually be the case, the number of candidates for a given office is not evenly divisible into the number of machines, the Election Committee will have to devise some lottery-like method to determine which candidate shall be given the preferred positions on the odd number of machines.

A sufficient number of voting machines should be used so that the membership will not have to wait any longer to vote on the machine than they would have had they been voting by paper ballot. A Local Union may consider having a sufficient number of paper ballots on hand in addition to the voting machines so as to expedite the voting during peak periods of voting.



(3) General

Any candidate shall be permitted the right to submit in writing his commonly known name, including his nickname, if any, to the Election

Committee as he desires it to appear on the ballot and it shall so appear.

It is not permissible under the Constitution to give any candidate a designation on the ballot unless two or more candidates for the same office have surnames identical in every way. In the event two candidates for an office do have identical surnames, the Election Committee shall allow appropriate designations for each, and, where possible shall utilize present or former union positions as the designation.

If candidates on a ballot are assigned a number which might be of assistance in tabulating, they shall receive these ballot designation numbers in the same order in which their names are drawn and appear on the ballot. These ballot designation numbers are particularly helpful in counting the vote where voting machines are used. Where rotation is used, a lottery similar to the one described above for determining ballot position shall be used to determine each candidate's ballot designation number. The ballot designation numbers, whether the Local uses a lottery or rotation system, shall remain constant for each candidate on all ballots. The sample ballot appearing in the picture illustrates the method of setting up a ballot.

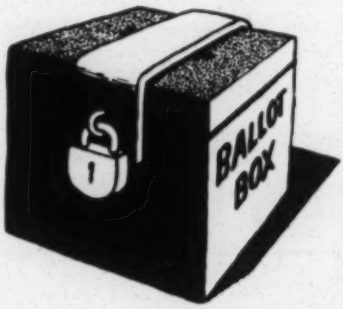
G. CONDUCT OF THE ELECTION

(1) General Considerations

If a Local Union has a membership in excess of 2,000, it should give serious consideration to the employment of a Certified Public Accountant or some other appropriate outside agency to conduct the election and tabulate the count. If an outside agency is retained, the Local Union can sharply reduce the number of members of the Election Committee. The difference in cost between having the election conducted by an Election Committee as against having it conducted by an outside agency will not be substantial. In many cases it will be less costly.

(2) Preparation for Actual Voting

In advance of the hour when a voting location is first scheduled to open during the election period, workers operating the voting location should check all ballot boxes to be sure they are empty and shall lock and seal the boxes in a way which will insure that any tampering with the ballot boxes will break a seal. If voting machines are used, the machines should be opened and checked to make sure that all counters register zero, following which the backs of the machines should be locked and sealed as in the case of ballot boxes. Under no circumstances should a ballot box, once sealed, be opened until all voting is completed and, except for the necessity of a maintenance mechanic clearing a jammed voting machine, the locked and sealed backs of voting machines should be kept intact until all voting is completed.



All challengers should be notified of the time the Election Committee is to check the ballot boxes or machines so that they may have an opportunity to exercise their right to be present when this function is performed.

The ballots to be used at a polling location should be divided into as many piles as there are voter check-in points. If the ballots are numbered, each pile should be checked to determine if the numbering sequence of the ballots in that pile is correct.

(3) Identification of Voter and Actual Voting

All voting must be done personally by the individual members. Except for absentee ballots pursuant to the procedures set forth in subsection 9 below, it is not permissible for members to vote by mail or any other indirect method.

Except in rare cases where elections are conducted on company time, Local Union elections are unlike governmental elections inasmuch as there is a high concentration of voters at three times during the day: before a work shift, during lunch hour, and after the work shift. Consequently, mechanics must be established which allow for speedy processing of voters on the one hand and proper democratic safeguards on the other. The essence of democratic safeguards in elections is to retain some type of record which will assure, in the event of a challenge, that a complete list identifying each member who voted can be constructed.

It is difficult to prescribe one best method of identification. Local Unions vary a great deal in size and structure and in other important ways which may have an effect on the procedure for conducting an election. What may be a completely efficient and democratic procedure in one situation might be unsuitable in other situations. Many Local Unions use a polling list as the check-point insofar as identification of the voter is concerned. If the polling list is used as the basic control, the member should be given a ballot upon showing of his badge and/or presentation of a membership card. In order for this system to work properly and efficiently, the polling list should be constructed by department, and in numerical order. In some Local Unions, the polling list will be extremely difficult to obtain, or if obtainable, will not be in usable form. Accordingly, proper safeguards can be established by other methods of identification without the use of polling lists. For example: every member might be required to affix his signature and badge number to a uniform size card. This card then would be deposited with the Election Committee in return for a bal-

lot. The Election Committee would compare the name and badge number on the card with the member's badge, payroll stub, or other means of identification, and then give the voter his ballot after the voter has been identified.

Either method, or a combination of both, (or other types of identification such as Social Security card, recent pay stubs, etc.) would be considered acceptable identification. Whatever method of identification the Local Union intends to employ should be described in the notice of election.

Having properly identified himself, the voter is in a position to cast his ballot. In Local Unions using paper ballots, the voter will be given a ballot which he will take into a curtained polling booth, or some other area or position where his vote can be cast in privacy. The voter will mark and fold the ballot in such fashion as to conceal the way he has voted. If the ballots are numbered, the voter should be certain that in folding the ballot, the perforated corner on which the ballot number appears is on the outside of the fold so that it can be conveniently torn off (unless the Local Union has adopted a rule providing that the perforated number shall be torn off the ballot at the time it is given to the voter). The voter should then leave the polling booths and take the folded ballot to the ballot box where an election worker should be stationed. The voter should deposit his ballot in the ballot box. If the ballots are numbered, the perforated corner on which the number appears must be torn off **before** the ballot is deposited in the ballot box. Where voting machines are used, the voter, after being properly identified, will be directed to a vacant voting machine. After voting on the machine, he should immediately leave the voting location.

(4) Instructing and Assisting Voters Because of Language Difficulty or for Other Reasons

When a voter requests instruction on how to mark his paper ballot, or how to operate a voting machine, he shall be given instruction by an election worker. However, the instruction must be confined to a general explanation, during which challengers may be present. When a voter requests instruction, the election worker cannot go into the booth with him, nor can the election worker enter the voting machine with the voter when the curtain is closed.

If a voter is unable to read, he may ask an election worker to assist him in voting. In these circumstances, two election workers shall accompany the voter to the booth or voting machine and shall mark the ballot or pull the levers for the candidate for whom the voter indicates his preference. Challengers cannot be present during this period when the election worker is actually assisting the voter to cast his ballot.

(5) Challenged and Spoiled Ballots

If a member spoils his ballot, he may return it to the Election Committee and exchange it for a new ballot. The Election Committee

should carefully preserve the spoiled ballots so that the total number of ballots used, less the spoiled ballots, can be checked against the total number of members voting.

If a member wishes to vote, but cannot identify himself as required by the election rules, or if a voter is challenged as ineligible at the polling place, he should be given a ballot. After voting, his challenged ballot shall be placed in a blank envelope, and the sealed, blank envelope shall be placed in another envelope across the flap of which the voter must sign his name.

Challenged ballots are held by the Election Committee until the counting is about to begin. At that time, each of the names on the outer envelope (cover envelope) is checked. Ballots cast by voters then declared ineligible are held pending possible appeals. The cover envelopes on the ballots of eligible voters are removed and the remaining pile of plain unmarked envelopes are shuffled. Then the envelopes are opened and the votes are counted.

When the Local Union uses voting machines, it must provide a reasonable number of paper ballots for use by challenged voters. Persons whose right to vote has been challenged, shall not be permitted to vote on a machine, but shall be allowed to cast a vote on a paper ballot. These challenged votes cast on paper ballots will be handled in the same way that challenged votes are handled when the Local Union uses paper ballots, except that after the challenges are decided and the envelopes of those held eligible to vote have been shuffled and opened, the election workers, with the challengers having the opportunity of being present, shall cast the votes on the machines so that these votes will be recorded in the machine totals.

(6) Eligibility to Vote

Except in Local Unions which uniformly require new members to take the oath of membership before obtaining full membership rights, the member's right to vote begins on the first day of the month for which dues are paid. Situations might arise, where the mechanics of the check-off system might provide that dues are deducted in one month for a previous month. For example, a new member's dues for the month of June may be deducted in the month of July. Yet, in accordance with the Constitution, his membership dates from the first day of June. Consequently, this member is eligible to vote in any election conducted in the month of June despite the fact that at the time the election takes place no dues have yet been deducted from his pay though the check-off arrangement assures the Local Union that his dues will be deducted in a subsequent month.

(7) Challengers

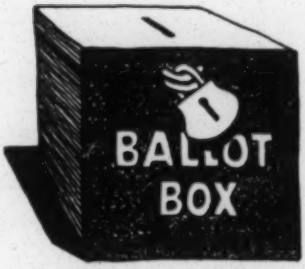
Challengers have a right to be present during all phases of the voting procedure as well as during the preparation of the voting areas. While each candidate for each office has the right to designate one challenger, where there is a large number of candidates running for the different offices, the candidates should be urged by the Election Committee to agree on challengers to serve on behalf of several candidates in order to minimize congestion and confusion at the election location. While challengers have a right to observe all activities of the election workers, they must make their observations in such a way as not to interfere with the election procedures. If a challenger wishes to object to any action other than the eligibility of an individual voter, he should make his objection to the election worker in charge of the voting location. If a challenger wishes to challenge the eligibility of a voter, he may make his challenge to the election worker to whom the voter is presenting his identification.

Challengers have a right to be present during preliminary preparations when (as described in Section 2-G (2) above) the election workers are checking ballot boxes or voting machines and are preparing the piles of ballots and polling lists for reception of voters. Challengers also have a right to be present during the tabulation of the votes. Challengers have a right to accompany ballot boxes at all times during the course of an election and until the ballot boxes are emptied and counted, unless the ballot boxes are placed in the custody of an **outside agency** and that agency will not permit challengers to be present while they have custody.

The challengers also have a right to keep the voting machines, or a located area enclosing the voting machines, under observation during these periods.

When voting locations are closed for different periods during the voting day (or overnight when the election is held on two or more days) challengers shall have a right to note the serial number of the top ballot in each pile of paper ballots (if the paper ballots are numbered) or the count on the public counter on voting machines. They may thereafter check these figures against the top ballot or the public counter when the election site is again opened. The challengers shall also be entitled to inspect and note the number of challenged ballots already accumulated whenever polls close, and to note the names of those members who have cast challenged ballots. These names, it will be recalled, will be written across the flap of each outside envelope in which a challenged ballot is enclosed. Under no circumstances, however, should any challenger be allowed to touch or handle a ballot.

(8) Ballot Boxes and Voting Machines



When the Local Union uses paper ballots, it should attempt to obtain official ballot boxes from the agency which supplies local governments, or to rent ballot boxes from one of the local governments. Ballot boxes should have a method of locking or sealing the slot separate from the lock and seal of the box itself. One type of box is illustrated in the drawing on this page. Whenever the voting location is closed, either during the day or overnight, or at the conclusion of the balloting, the device which seals off the slot should be locked and sealed in some way, and the slot should not again be opened until voting resumes at that location. When voting is about to resume, or when the votes are about to be counted, the challengers may check the lock and seal which secures the slot and box so as to make sure that they have not been tampered with in the interim period. Voting machines may also be obtained from some branch of the local government.

(9) Absentee Ballots

If the membership, by specific action, decides to allow absentee voting, the following procedure shall be used:

(a) The call to the election shall specify that absentee ballots may be cast and shall inform the membership of the rules governing absentee ballots;

(b) The Election Committee shall receive requests in writing bearing the personal signatures of the voters, requesting the absentee ballots, and certifying the reasons for their inability to vote on election day;

(c) Such requests for absentee ballots must be in the hands of the Election Committee no later than forty-eight (48) hours prior to the opening of the polls;

(d) Absentee ballots shall be returned to the Election Committee prior to the closing of the polls. Each such ballot shall be enclosed in a plain white envelope which shall itself be enclosed in another envelope bearing the signature of the absentee voter across the flap which seals the envelope in such manner that any breaking of the seal will cause a distortion of the signature;

(e) In the event more than one absentee ballot is cast, the plain white envelopes all shall be extracted from the outer envelope by the Election Committee at the same time and shall be shuffled so as to guarantee that no member of the Election Committee will know how any particular person voted.

When the Local Union uses voting machines, the same paper ballots which will be necessary to cast challenged votes (as described in Section 2-G (5) above) may be used as absentee ballots.

H. COUNT OF BALLOTS

(1) General Preparation

At the conclusion of all voting, the Election Committee shall set a time and place, if possible immediately after the conclusion of voting, when the cast ballots shall be counted and tabulated. Where paper ballots are used, all ballot boxes from the voting location or locations shall be brought to the counting place, which shall be a large room equipped with ample table surface so that the counting and tabulating can proceed in an orderly fashion. Where voting machines are used, the Election Committee shall set a time when the machines at each voting location will be opened and the vote count recorded.

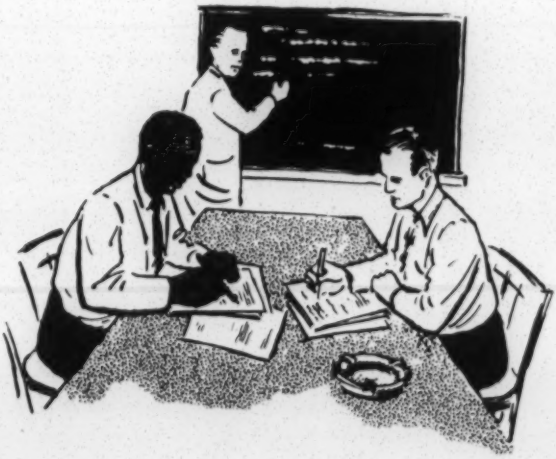
A careful record should be kept of the number of ballots actually used. If numbered paper ballots are used, the total can be obtained by reference to the serial numbers of the unused ballots. If voting machines are used, the total can be obtained from the public counter which is a dial on the outside of the machine which records the total vote cast.

(2) Actual Counting of Votes

(a) **General.** The procedure recommended in this Section for counting and tabulating votes is advisory. This procedure is necessarily quite detailed. Most of its elements can be varied without interfering with the accuracy of the count. However, in varying the recommended procedure described below, care should be taken to protect the challenger's **right** to observe all phases of the counting and tabulation.

(b) **Paper Ballots.** When the ballot boxes have been emptied at one place, the ballots shall be opened one-by-one and arranged in an orderly pile. One election worker or member of the Election Committee shall go through the piled ballots and call off the votes on each ballot to another election worker or member of the Election Committee, who shall record in writing the votes as they are called out. Challengers shall have the right to be present during this entire operation. All phases of the counting shall be conducted in such a way that a challenger can observe the entire procedure.

When the counter reaches a ballot which he believes to be invalid, he shall put that ballot in a separate pile and shall not call off the names of the candidates given votes on that ballot. Whenever a challenger challenges the validity of a ballot, it shall be placed in a separate pile and the vote on that ballot shall not then be included in the count. When all other ballots have been counted, the Election Committee shall determine whether there is a mathematical possibility that the total number of challenged ballots can affect the result for any office. If there is such a mathematical possibility, the members of the Election Committee shall inspect all challenged ballots and decide which, in their judgment, are properly marked. They shall then count the votes for the office or offices in question (those which can be affected by the number of ballots challenged for validity) and record them in the poll records. After challenged ballots have been considered by the Election Committee and either accepted or rejected, they shall be separated into two piles—the accepted and the rejected. The pile of challenged but counted ballots and the pile of rejected ballots shall both be preserved in sealed envelopes, properly labeled, so that they will be available in the event of any appeal.

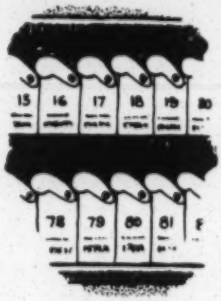


As the ballots from each box are tabulated, another box shall be opened and the same procedure followed. However, in large Local Unions where there are many different ballot boxes, the Election Committee may arrange a number of separate counting stations within the counting area. Each counting station shall use a separate tally so that the counting may proceed simultaneously. Each candidate shall be entitled to place one challenger in the room for each counting station. Again, candidates are urged to agree on a single challenger to represent them jointly so as to minimize confusion.

When all the ballots have been counted, and the votes recorded, the Chairman of the Election Committee, together with such other members as may be needed, shall add and total the votes

recorded for each candidate. This final step shall also be performed within plain view of the challengers. The Chairman of the Election Committee shall then record the total vote received by every candidate for every office on a single sheet of paper. These figures shall constitute the official canvass of votes cast in the election. The Chairman of the Election Committee shall then sign the official canvass, as shall each member of the Election Committee and challengers may be requested to sign.

(c) **Voting Machines.** Where voting machines are used, the Election Committee shall gather in each voting location and shall, one-by-one, open the voting machines. As each voting machine is opened, a member of the Committee or an election worker shall call off the votes upon the machine counter for each candidate and another member of the Election Committee or election worker shall record these figures. Challengers shall have the same right of presence and observation as described in connection with counting paper ballots.



When a number of voting machines have been used in a single location, or when there are several voting locations, the Election Committee again may set up teams to record a group of machines or all machines in a given location. Again each candidate shall be entitled to have one challenger for each team. In recording the vote, care should be taken to record the number shown by the so-called "public counter" on each machine which shows the total number of voters using that particular machine.

When all the machines have been opened and the figures recorded, the Chairman of the Election Committee shall consolidate these figures and record them as in the case of the paper ballots on a single sheet so that the total votes cast for each candidate shall appear opposite his name. As in the case of paper ballots, this shall constitute the official canvass of votes cast for each candidate in the election.

I. CERTIFICATION OF ELECTION AND RUN-OFF ELECTION

(1) Even though a candidate is unopposed for office and pursuant to the Constitution is elected by acclamation, under the Labor-Management Reporting and Disclosure Act, his name must appear on the ballot.

(2) Any ballot which clearly indicates the intention of the voter shall be considered valid provided, however, that a ballot which bears any identifying marks shall be void. Any unusual marking on the ballot may identify it. It may be made in the voting square or on another part of the ballot. If the mark appears in one of the voting squares the ballot should not be voided unless the marking is so obvious as to be unmistakable. If a voter uses a mark other than "X" but which clearly indicates his intention to vote for a particular candidate, for example: if a voter places an "X" to the right of a candidate's name or strikes out the names of all candidates except one, his ballot should not be considered to bear an identifying mark. If, on the other hand, the marking does not bear any relationship to the voter's intention with regard to candidates, normally it should be held to be an identifying mark and the whole ballot should be voided.

If a member has voted for more candidates than can be elected to an office or if for any reason (other than the presence of an identifying mark) the member's vote for one office is declared invalid, his vote for that office shall not be counted, but this shall not affect the validity of the remainder of the ballot.

(3) All candidates for Executive Offices must be elected by majority vote. The majority required for an office is the first number higher than half of all valid ballots cast for that office.

Local Unions must now elect three Trustees at the same time, except in the 1960 elections, where one or more Trustees were elected in 1958 for four-year terms, in which event such elected Trustees for four-year terms in 1958 may hold office until 1962, at which time the Local Union must commence electing three Trustees each year for two-year terms. In the election of three Trustees, the majority is determined in the following manner:

(1) Trustees are elected simultaneously and there is no distinction between the two offices and the membership is entitled to vote for three (3) Trustees.

(2) Where there are less than seven (7) candidates, the three (3) candidates receiving the greatest number of votes shall be declared elected.

(3) Where there are seven (7) or more candidates, the majority point is determined by adding the total votes cast for the office of Trustee, dividing by the number of positions to be filled (which is three (3)), again dividing by three (3), which will determine the 50% mark, and then adding one (1) to determine the majority point.

(4) In the event more than three (3) candidates receive a majority vote, the three (3) candidates with the greatest majority shall be declared elected.

(5) Where there are seven (7) or more candidates and no candidate receives a majority, the run-off is confined to the six (6) candidates receiving the greatest number of votes.

(6) Where there are seven (7) or more candidates and only one candidate receives a majority, the run-off is confined to the candidates who finished in second, third, fourth, and fifth positions.

(7) Where there are seven (7) or more candidates and only two (2) candidates receive a majority, the run-off is confined to the candidates who finished in third and fourth positions.

(4) Where no candidate receives a majority of the votes cast for an office there shall be a run-off election between the two candidates receiving the greatest number of votes.

(5) When the final results of the election are tabulated, the tabulation for the winning candidate for each office should be set forth in a written report and certified to by the Election Committee. This certified report or canvass shall be reported by the Election Committee to the next membership meeting.

J. RECOUNTS

(1) Any candidate may request a recount from the Election Committee. The Election Committee, in the exercise of sound judgment based primarily upon the closeness of the vote and the number of ballots cast, may grant or deny a recount. If the candidate who is requesting the recount is dissatisfied with the decision of the Election Committee, he has recourse by appealing to the Local Union membership meeting. Local Unions should consider adopting a general rule whereby in any election where the difference between the candidate requesting a recount and the candidate receiving the highest number of votes is less than 1% of the total votes cast for that office, the Election Committee automatically grants such a recount upon request. Even if the Local Union should adopt such a rule, however, a candidate could request a recount, though the difference is more than 1%, in the normal way and if the Election Committee denies the candidate's request the candidate could appeal the denial to the membership. In recounting the ballots, the same general procedure used in the original counting should be employed.

(2) The International Constitution provides that all ballots must be preserved for one year after the close of

election and a notarized statement by the Election Committee shall be made with regard to the election results (i.e. the official canvass) and the disposition of the ballots before the ballots are destroyed. During this period the ballots should be kept in a safe place where they can be locked and sealed, and all challengers should be notified of the place of safekeeping and be entitled to be present when the ballots are originally locked and sealed and later when the seals are broken. While the Constitution specifies ballots must be preserved for a minimum of one year, if there is any question under consideration as to the validity or propriety of the election, or any appeal in progress growing out of the election, the Local must continue to preserve the ballots indefinitely until any dispute or appeal is finally settled.

Where voting machines which do not print tapes are used, the requirement for preserving ballots for one year can be met by having the Election Committee copy off the voting machine totals, in the presence of such challengers as wish to be present, on tally sheets and certify these sheets as the machine totals. The challengers should be requested to also sign these tally sheets.

K. APPEALS AND NEW ELECTIONS

(1) Appeal from Decision of Election Committee on Validity of Ballots

Where the difference between the winning candidate and the runner-up as reported by the official canvass, is small enough so that it could have been affected by a decision of the Election Committee to count certain challenged ballots or to reject certain ballots in the counting procedure over the objections of a candidate's challenger, the candidate feeling himself aggrieved by the Election Committee's decision, may appeal that decision to the Local Union membership. In that event the ballots in question (pursuant to the discussion in Section G (5) above), will have been preserved in separate sealed envelopes and shall be produced before the membership for their consideration.

(2) Charges that Fraud or Other Misconduct Have Made the Whole Election Void

Any candidate or his challenger may, at the conclusion of the counting, challenge the entire election. This challenge should be made to the Election Committee immediately after the final counting of the votes. In no event will the challenge be considered if it is not made within seven (7) days of the closing of the polls, or at the next membership meeting, whichever occurs later. The person making the chal-

lenge should specify the reasons for the challenge. The Election Committee may consider the challenge and shall make a recommendation to the next membership meeting where it must report the results of the election, but the Election Committee cannot itself take action on the challenge. The membership shall consider the challenge and the recommendations of the Election Committee and if convinced that the election was fraudulently or improperly conducted to such a degree as to invalidate it, may, by a majority vote, order a new election.

A well substantiated showing of fraud, or of extremely loose practices in conducting the election, should be required by the membership before voting to invalidate an election and order a new one.

In some cases a minority of the membership of a Local Union may be in a position to overrule the will of the majority in passing judgment upon the report of the Election Committee. A situation may arise when a group of officers is elected by the votes of a thousand or more yet when the Election Committee reports to the membership, a group of 50 or 75 might constitute the majority of that membership meeting and reject the Election Committee's report on some very minor, technical, or insubstantial grounds, thus frustrating the will of the majority. Accordingly, certain safeguards must be taken to protect the democratic decision of the majority against minority action.

No new election should be conducted in a Local Union until a complete report of the circumstances leading the membership to order a new election, as well as the official minutes of the membership meeting where the members took that action, are submitted to and approved by the International President. Upon the submission of such a case to the International President, he will either make a decision on the basis of the record submitted to him, or, if the facts are sufficiently contradictory to warrant the step, arrange for the Appeals Committee of the International Union which normally handles appeals from the region in which the Local is located (pursuant to Article 32, Section 6 of the International Constitution), to investigate and make a recommendation to him. The International President may make a decision approving the action of the membership in which case the new election shall proceed, or may make an interim decision overruling the action of the membership in which event, the matter shall be referred to the next meeting of the International Executive Board for final decision. During any period when the International President (or the International Executive Board) is considering the propriety of Local Union action in ordering a new election, the offices which were voted upon in the election which is being questioned, shall be temporarily occupied by those candidates who would have been elected on the basis of the official canvass if the election had not been challenged. During the period of any such appeal, the ballots of the election must, of course, be preserved until the matter is finally settled as stated in Section 2-J (2) above.

SECTION 3

Procedure for Electing Executive Board Members at Large

Where a Local Union has Executive Board members in addition to its executive officers, these members may be elected by a variety of methods as may be set forth in the Local Union's By-Laws. However, the new Labor-Management Reporting and Disclosure Act requires that the balloting be secret and that the procedures outlined in paragraphs B and E of the preceding Section must be followed even though the candidate becomes a member of the Executive Board at Large by virtue of being elected to a Shop Committee or some other office where he is elected to that office directly by the votes of the membership. Additionally, the other procedures set forth in the preceding Section should be observed insofar as applicable to the special circumstances of any such election.

SECTION 4

Procedure for Electing Local Union Delegates to UAW Constitutional Conventions

A. GENERAL

This Section is intended to set forth the procedure a Local Union should follow in electing delegates to the biennial convention of the International Union. Since most of these procedures are identical with those already fully set forth in relation to the election of Local Union officers, this Section will be confined to a discussion of the few differences in procedure between Local Union officer elections and delegate elections. On those phases of the procedure which are identical, no comment will be made. In the following respects, the procedure set forth in the previous Section much be modified in connection with delegate elections. **However, the procedures set forth in Section 2, Paragraphs B and E must be followed in these elections.**

B. DATE OF ELECTION

The Local Union membership or in the absence of membership action, the Election Committee (which may be the standing Election Committee, or, if the Local Union has no standing Election Committee, a committee especially elected to conduct the delegate election pursuant to the provisions set forth in Section 1 of this Booklet) shall set the date of the delegate election. This date must be set after the issu-

ance of the convention call allowing time for nominations, preceded by at least seven (7) days notice. At least seven (7) days must elapse between nomination and the election. A fifteen (15) day notice of the election must be given by posting and mailing in the same manner set forth for executive office elections in Section 2, Paragraph B. The election must be scheduled to make the results available at least twenty-one (21) days prior to the opening of the convention in order that the names of delegates elected can be submitted to the International Union within the time prescribed in the Constitution.

C. NOMINATIONS AND ELIGIBILITY

In order to be eligible to serve as a delegate to a UAW Constitutional Convention, a member must have been in continuous good standing in the International Union for twelve (12) months immediately preceding the first (1st) day of the month in which the Convention is held and shall have been a member of his Local Union for three (3) months immediately preceding the first day of the month in which the Convention is held.

D. ALTERNATE DELEGATES

Only the Local Union membership or Joint Councils in Amalgamated Locals may decide whether or not the Local Union will elect alternate delegates. If the Local Union membership decides to elect alternate delegates (which may be less, but not more, than the number of legal delegates from that Local Union) they may do so in one of two ways:

(1) By providing in advance of the election that a certain number of runners-up in the contest for delegates shall be alternates, in the order in which they finish. If the Local adopts this method, it must specify in advance of the election, whether the voter will be allowed to vote for a total number of candidates equal to the total of delegates and alternates to be elected, or only for a number of candidates equal to the number of delegates to be elected.

(2) By providing, in advance of the nominations, for nominations of candidates for alternate delegate. In the event the Local Union membership follows the second course, the membership action must provide for the number of alternate delegates to be elected. These alternate delegates, having been nominated separately, shall be listed on the ballot under either the separate heading of Candidates for Alternate Delegate, or shall be listed on a separate ballot to be voted by each member at the same time. If voting machines are used, the candidates for alternate delegate shall be listed in a separate section of the voting machine from the candidates for delegate and shall appear under a separate heading.

E. CERTIFICATION OF ELECTION AND RUN-OFF ELECTIONS

Candidates for convention delegate, and candidates for alternate convention delegate, shall be elected by plurality vote. Regardless of the number of nominees, the candidates having the greatest number of votes for delegate, or for alternate delegate, shall be considered elected. It is unconstitutional for a Local Union to require a majority vote for election of delegates or alternate delegates, and, therefore, no occasion will arise for conducting a run-off election.

F. APPEALS AND NEW ELECTIONS

The procedure in delegate elections differs from that outlined in Section 2-K only in that an appeal from the action of the International President would be taken to the Convention Credentials Committee. An appeal from a delegate election must be submitted to the International Secretary-Treasurer within seven days of the election but in no event less than ten days preceding the convening of the convention involved. Any such appeal will be referred to the Credentials Committee of the convention for processing in accordance with Article 8, Section 16 of the International Constitution.

SECTION 5

Election of Committeemen and Stewards

A. GENERAL PROCEDURES

The Constitution allows a Local Union wide latitude in electing stewards and/or committeemen and non-executive officers (such as Executive Board Members at Large). The Constitution does demand that stewards and/or committeemen must be democratically elected.

It is extremely difficult to be specific with regard to most of the phases of committeemen or steward elections. However, each Local Union, being aware of its own individual situation, and being in the best position to determine its own rules within the general frame work required by the constitutional mandate that these elections be democratic, should set forth its own election procedures for conducting the steward and committeemen elections. These procedures should be adopted by the general membership or delegate body of the Local Union as a single resolution, or as a part of the Local Union's By-Laws. Insofar as possible, each of these Local Union procedures should cover in a definite way the various aspects of elections which are discussed with regard to Local Union officer and delegate elections in earlier Sections of this Booklet. The few specific requirements contained in

this Section of the Booklet must be incorporated in a Local Union's committeemen-steward election procedure.

B. NOTICE OF ELECTION

One basic democratic safeguard which must be provided is that of proper notice. The Constitution does not specify the amount of notice that must be given but it is strongly recommended that at least seven (7) days notice must be given for nomination and/or election of committeemen and stewards. In some cases Local Unions prefer to conduct nominations and elections of stewards and/or committeemen at the same meeting and this is permissible providing that the membership has been duly notified of this fact.

C. ELIGIBILITY TO RUN FOR OFFICE

Local Unions are free to establish reasonable eligibility requirements for stewards and committeemen. The good-standing requirements can be for a period of less than one year but not more than one year. The Local Union can also determine whether or not an executive officer is eligible to be a candidate for steward or committeeman. Whatever reasonable eligibility requirements the Local Union establishes, it is essential that the Local Union membership adopt the eligibility requirements and that these requirements be included in the posted notices of nominations.

D. SECRET BALLOT AND THE RIGHT TO CHALLENGE

In the actual conduct of the election, the Local Union procedure must insure each member the right to vote by secret ballot, though ballots need not be printed or mimeographed—they may be blanks of paper upon which the member may write the name of the candidate or candidates for whom he is voting. The Local Union procedure must also insure that each candidate, either personally or through a designated challenger, can observe all phases of the voting and counting of ballots.

E. NECESSITY OF MAJORITY OR SIMPLE PLURALITY FOR ELECTION

The Local Union must itself decide whether a majority vote, or a simple plurality vote, is necessary for election of a committeeman or steward. It is extremely important that the Local Union, either by adoption of an appropriate By-Law or by specific action of a membership meeting, make a definite decision as to whether a majority or plurality vote is required, in advance of the election. It is also impor-

tant that a Local Union follow the same pattern in all committeemen or steward elections though the membership may reverse itself, in which event, the new decision must be followed, until again reversed. The essential point is that during any given period of time, all stewards or committeemen elections conducted by a Local Union must be decided by either a plurality or a majority vote. It is not permissible for some such elections to be decided by majority vote and others by a plurality vote.

THE UAW EDUCATION DEPARTMENT

Solidarity House

8000 E. Jefferson Avenue

Detroit 14, Michigan

10c a copy $7.50 a hundred

No. 349 Printed in U.S.A.

Revised March, 1960

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PRINTED IN U.S.A.

Six Ethical Practices Codes Adopted by the AFL-CIO

> "The Committee on Ethical Practices shall be vested with the duty and responsibility to assist the Executive Council in carrying out the constitutional determination of the Federation to keep the Federation free from any taint of corruption or communism. . . ."
>
> AFL-CIO Constitution, Article XIII, Section 1 (d)

To implement this section of the AFL-CIO constitution, the AFL-CIO Committee on Ethical Practices developed a set of guides and principles. They were then adopted by the Executive Council itself and are now called the AFL-CIO Ethical Practices Codes.

The Codes deal with six general areas:

I. Issuance of local union charters.

II. Protection of health and welfare funds.

III. Rooting out racketeers, crooks, communists and fascists.

IV. Conflicts between personal financial interests and union duties.

V. Financial practices of unions.

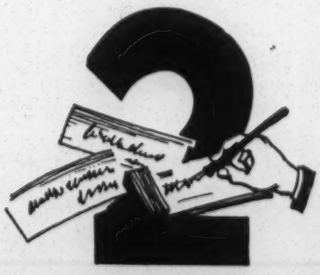
VI. Union democratic processes.

Each code calls for early adoption of constitutional or administrative changes to comply fully with the standards in the Code.

Here is a SUMMARY of each code:

I. Local Union Charters—How do we insure that the purpose of a local charter is not perverted?

There have been cases where a local union charter was issued to so-called "officers" of locals with no members—in other words, "paper locals." Using this charter, a dishonest person could get money from employers (by promising them "easy" contracts, keep workers from getting a legitimate union (by signing back-door agreements with employers), raid other unions, etc. This code defines the standards under which local union charters should be issued, and the kind of "bona-fide employees" they should be issued to.



II. Health and Welfare Funds—How do we prevent kickbacks from insurance brokers?

Today, many union officials are involved in negotiating, purchasing, or administering health, welfare or pension funds gained through collective bargaining. The Douglas Committee in 1955 uncovered a handful of officers who have used their union position to make money from these funds for themselves or their friends. Such practices as receiving two salaries, one from the union and one as an officer of the welfare fund, getting kickbacks from insurance brokers, paying out exhorbitant administration fees, placing insurance with more expensive companies than necessary, etc., came to light.

This second Code, to guard against these practices, calls for:

(a) elimination of fees or salaries from such funds to full-time union officers.

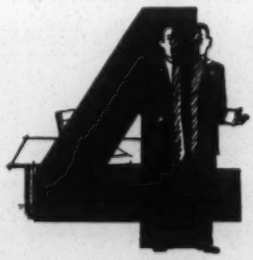
(b) elimination of compromising personal ties between union representatives who influence the administration or placement of insurance contracts and insurance companies, and brokers or consultants doing business with the welfare plan.

(c) real competitive bidding on insurance contracts.

(d) providing a "grievance procedure" for those members who are unjustly denied benefits and a full and independent accounting and reporting of the funds to the membership.

III. Racketeers, Crooks, Communists and Fascists—How should the labor movement deal with racketeers?

This Code bars convicted criminals, crooks and racketeers and supporters of totalitarian organizations from holding any trade union elected office or appointed position. Although a union cannot be a law enforcement agency and convict people of law violations, it needn't wait for a criminal conviction to bar corrupt, Communist or Fascist influences from office. The code cautions that in this area, as in all others, judgments must be made as a matter of common sense and with due regard to individuals' and unions' rights.



IV. Conflicts of Interest—Should a union officer have a financial interest in the company he negotiates with?

This Code deals with the private business or financial interests of union officials, and points out that these must not conflict with their duty to represent the best interest of the membership. No union official should have a large investment in any company he bargains with.

(Continued on next page)

AFL-CIO Health and Welfare Fund Code

Under Ethical Practices Code No. 2, the AFL-CIO says: "It is imperative that the AFL-CIO and each of its national and international unions affiliated with it rigorously adhere to the highest ethical standards in dealing with the subject of H&W funds."

Eleven points of the code are spelled out. Here is a summary of them:

1. No full-time paid union official should receive additional fees or salaries from a welfare fund.
2. No union official responsible for fund matters should have compromising ties with carriers, brokers, or consultants doing business with the fund.
3. Complete financial records should be maintained, with regular audits.
4. Such audit reports should be made available to all union members and other affected employees.
5. Trustees should make "full disclosure and report" to beneficiaries at least annually.
6. Funds using commercial carriers should select them by competitive bid to secure the lowest net cost for given benefits.
7. Welfare fund reserves should not be invested in any enterprise in which a contributing employer, insurance carrier or agency doing business with the fund, or any union official has an interest.
8. Where unethical payment is made, the union should take appropriate legal action against both the parties giving and receiving such payment.
9. Every H&W program should have machinery for redress against unjust denial of claims so as to afford the beneficiary prompt and effective relief.
10. Duty for enforcing these standards rests with every union official and member. "The best safeguard against abuse lies in the hands of vigilant, informed and active memberships, jealous of their rights and interests."
11. Where union rules and regulations must be amended to provide for the above safeguards, the changes should be made as quickly as possible.

Six Ethical Practices Codes Adopted by the AFL-CIO

(Continued from preceding page)

V. Financial Practices and Proprietary Actions of Union—What is the purpose of a union treasury and how should it be administered?

This fifth Code states a simple principle: A union is not a profit-making institution. It voices objections to investments by a union in a business enterprise with which it bargains, condemns the use of union funds to bring personal profit or advantage to any union leader, and contains a detailed set of minimum accounting and financial controls and procedures which was drawn up by a committee of Secretary-Treasurers of AFL-CIO affiliates.

VI. Union Democratic Processes—How do we preserve real union democracy?

This last Code spells out the democratic rights of members and procedures to insure that unions remain democratic and corruption and unfairness can be rooted out wherever they penetrate the union movement.

It also declares that members have the responsibility to *exercise their rights* of union citizenship and to loyally support the union.

A summary of the basic democratic rights and procedures in Code VI includes:

- **Members** have the right to full and free participation in the union; the right to vote periodically for local and national officers in honest elections and to run for and hold office subject only to fair and uniformly imposed qualifications; the right to fair treatment under union rules, laws, and disciplinary actions; and the right to criticize policies and officers so long as this does not undermine the union itself.
- **Local union officer elections** should be democratic. The term of office should be spelled out in the Constitution and should be no longer than 4 years.
- **Membership meetings** should be regular. Members should be given proper notice of time and place.
- Regular **conventions** should be held at stated intervals, at least every four years, with proceedings or an accurate summary available to the membership.
- Officers of AFL-CIO and affiliated internationals should be elected in free, fair and honest elections with adequate safeguards to insure this. They shall abide by and enforce the constitution and carry out convention decisions.
- **Discipline of locals and subordinate bodies** by internationals and the AFL-CIO to ensure democratic, responsible and honest administration should be used sparingly. Trusteeships should be lifted as soon as specific abuses are corrected.

This material reprinted from October, 1957, *AFL-CIO Education News and Views*. For additional copies, write to AFL-CIO Education Department, 815 Sixteenth Street, N.W., Washington 6, D. C.

AFL-CIO Publication No. 68

American Federation of Labor and Congress of Industrial Organizations

George Meany, *Pres.* Wm. F. Schnitzler, *Secy.-Treas.*

Complete text of the AFL-CIO Ethical Practices Codes (AFL-CIO Pamphlet No. 50) may be secured from AFL-CIO Publications Dept., 815 16th St., N.W., Washington 6, D. C.

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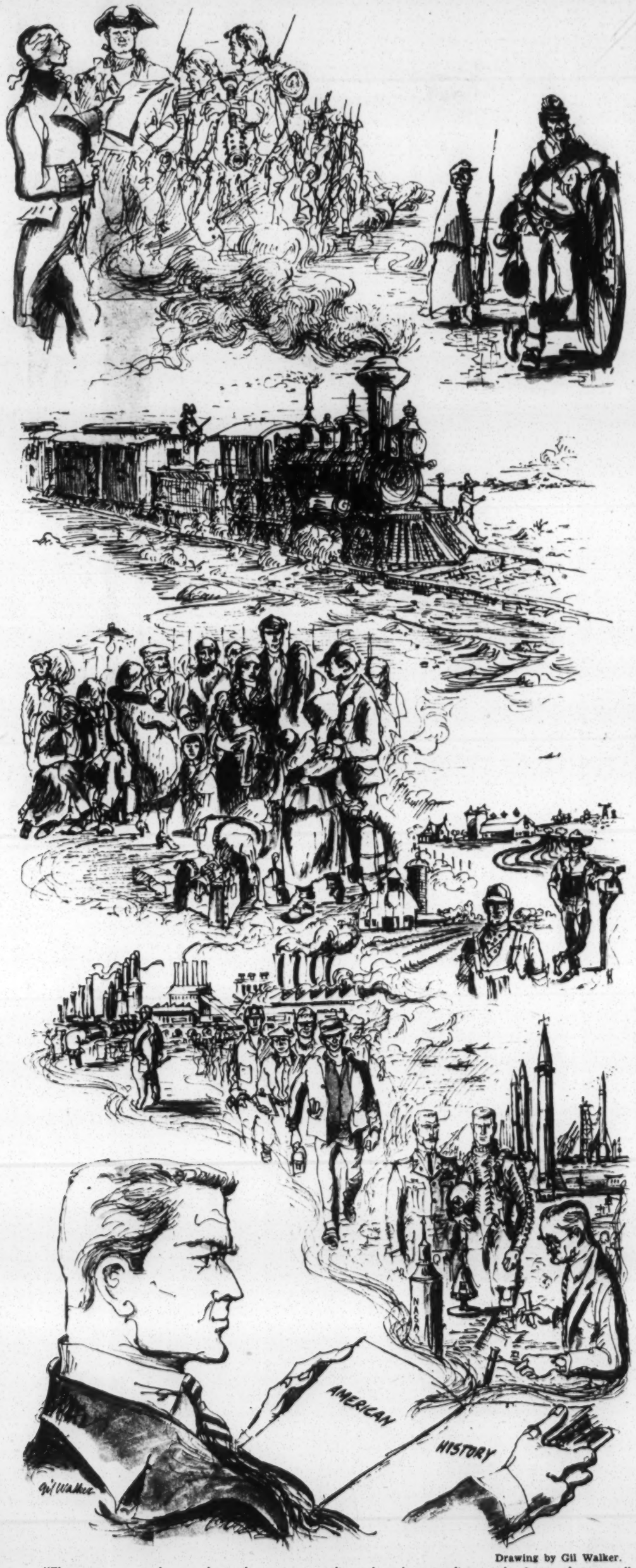
NY Times Magazine
April 26, 1959

p. 30



Drawing by Gil Walker.

"The more we study ourselves, the more complicated and contradictory the image becomes."

We, the People, In Quest of Ourselves

Throughout our history we have sought to define our national character. Do we have one?

By DANIEL J. BOORSTIN

WE Americans are a people in quest of ourselves. Ever since our birth as a nation we have been trying to find a mirror in which to see our true image. And this anxious uncertainty about the kind of people we are still distinguishes us among the nations of the world.

Thus, our concern today over what peoples abroad think of us comes not only from our desire to win the international popularity contest with Soviet Russia. Of course, we want to assess the results of the millions that we pour into foreign aid and propaganda. But we are usually less interested in what others think of our form of government or our foreign policy than in what they think of us as people. We are a little like the adolescent who waits for those around him to help him discover who he really is.

Unlike us, the people of Western Europe, and of many other parts of the world, have had for centuries a pretty clear image of themselves—of how to behave like Englishmen, for example, or Japanese. Of course, they have been helped by longer histories and richer national literature. While they have had only to live up to a role assigned by their past, Americans have been trying to guess the role demanded by their future.

OUR history, far from showing us what we are really like, helps account for our self-conscious search for identity. As a nation of immigrants, all of us have had to suffer cultural amnesia—to forget ancient images and break old molds. Our nation was born without nationalism. It was created by reluctant rebels, often more eager to be authentically English than to be ambiguously American. The government they established was less the product of anybody's grand vision than a by-product of the struggle of colonials to preserve their rights as Englishmen and as citizens of their separate colonies. Americans thus acquired their "Americanness" less from a desire to be American than from an inability to be as English as they wished.

Although the new nation took the name of the United States, there never came into our language an unequivocal adjective to designate our nationals. (The word "United-Statesian" would have been disconcertingly precise, though the equivalent *estadounidense*, despite its awkwardness, came into Spanish.) The people of the United States called themselves "Americans"—expressing both an expansiveness and a vagueness in the national character. Those who share the hemisphere with us have long since come to call themselves by more precise names—"Canadians" or "Mexicans."

In the early decades of national life, Americans wrote and talked endlessly about American opportunities and the American future, but when we look to their writings for a description of the national character we find a boast, an apology, or a prophecy. Thomas Jefferson, for example, foresaw an "Empire for Liberty," populated by unborn millions, with unconfined boundaries—possibly including Cuba and Canada.

THE classic self-definition of the American intellectual character was Ralph Waldo Emerson's "American Scholar." Emerson's conclusion was that every American should strive "to be a unit * * * to yield that peculiar fruit which each man was created to bear." Instead of a clarion call for a new American character (as it has usually been considered), this should more accurately be described as a foghorn, bleating the American's uncertainty about where he was, who he was and who he might become.

Some of those—like Daniel Webster—who talked at greatest length about what it meant to be an American said the least that was concrete. Their self-descriptions, echoing abstractions like "Empire," "Equality" and "Destiny," had the hollow ring of a Fourth-of-July oration.

The more we study these early American efforts to describe the American character, the easier it is to understand why Americans turned with relief to what foreigners had to say about them. While the variety of American life led New Englanders or Virginians to take flight in cloudy national ideals and pompous metaphors, European travelers characterized us in vivid detail: they called us rude, friendly, materialistic, generous, outspoken, superficial, religious, irreverent. Their portraits were full of contradictions, but at least they reassured Americans that a national character existed.

AMONG the most acute of the nineteenth-century observers were the English—great social novelists like Charles Dickens, popular adventure novelists like Capt. Frederick Marryat, novelists of manners like Anthony Trollope (and his less famous mother, Frances Trollope), social critics like William Cobbett and Harriet Martineau, and scientists like Sir Charles Lyell. The books these returning travelers wrote became best sellers here. Charles Dickens' "American Notes," despite the harsh words it had to say about some American institutions, sold over fifty thousand copies within a week. Many others did almost as well.

Of course, Americans were irritated at the *(Continued on Page 32)*

DANIEL J. BOORSTIN, Professor of American History at the University of Chicago, has written several books, including "The Genius of American Politics" and "The Americans," a study of the Colonial life and mind.

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In Quest of Ourselves

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frequently unflattering portraits of themselves. They insisted that Dickens was an ungrateful guest; that the others, too, were prejudiced, dishonest, sensational and willfully misleading in their use of every dramatic episode—the cruel flogging of a Negro, the aggressive inquisitiveness of a rude shipmate, or an eye-gouging fight between backwoodsmen—as if it were an epitome of the national character. But they pored over these accounts with rapt curiosity.

IT is hard to imagine the English or the French of that day (or of ours) caring so much what foreign travelers said about them or seriously using the observations of tourists to form estimates of themselves. But we have always been poor at self-portraiture. And from the beginning foreigners have been so helpful to us that we have come to lean heavily on them for descriptions of ourselves.

In our own century, however, particularly in recent years, Americans themselves have been working hard to draw sharper lines around the national image. As American history and literature have become academically respectable subjects, all the tools of scholarship—and of pedantry—have been used to anatomize the American character.

A few books resulting from this study—like V. L. Parrington's "Main Currents in American Thought"—have a scope and grandeur and concreteness that actually help in American self-definition. The Civil War has become a cult, and its most popular interpreters, Carl Sandburg and Bruce Catton, find clues to the national character in this great trauma of national life. The numerous American history book clubs and the popularity of historical novels on American subjects, like Margaret Mitchell's "Gone With the Wind," express not merely an upsurging patriotism, but an acute self-consciousness, a determination to use every scrap of information to learn the mode we should live up to. Influential works of sociology—David Riesman's "The Lonely Crowd," William H. Whyte Jr.'s "The Organization Man," Max Lerner's "America as a Civilization" and J. Kenneth Galbraith's "The Affluent Society"—appeal because they tell us what it's like to be an American.

BUT the more concretely we describe ourselves, the more diffuse, complicated and contradictory the image becomes. For our history—despite its brevity—is a story of diverse regions and conflicting traditions. The more we learn of New England Puritanism, the sharper appears the contrast with the ways of other regions. The more we learn of the South, the clearer it becomes that there have been many Souths, with many different traditions.

WE have only lately begun to discover in detail the distinctiveness of our different immigrant groups—English, Irish, German, French, Polish, Italian, Jewish and Japanese—and the variety of American religions, the peculiarities of the suburb, the metropolis, the farm, of the white-collar classes and the junior executives. The shrewdest prophets of American politics today are those who look closely at the differences between groups of varying racial, religious and national origin and at the differences even between individual counties.

Events of the past twenty years have only increased our confusion. Take, for example, our notion that we are a brave new world offering escape from tradition-ridden Europe. This was one of the longest, strongest threads in our thinking. But the course of history since World War II has snapped that thread. Through NATO and the Marshall Plan we have become defenders of Western Europe's religious and political traditions. Today we bulwark an older, liberal-Christian Europe against newer atheistic totalitarian forces.

At the same time, our peculiar history as an ex-colonial people somehow still gives us sympathy for all peoples who try to start afresh. In technology, education, social customs and even in politics—we remain among the most experimental, fluid, forward-looking nations. Yet, in our attitude to religion, our reverence for law and our anti-utopianism, we champion the past.

EUROPEAN critics call us a "materialist" nation. But if we are a people obsessed by things it is in a very different sense from that in which any other people has ever been. Waste is part of the American way of life. Just as the superabundant population of China has set the stage for the Chinese waste of human life, so our superabundant natural resources have allowed us to waste everything else. "Know-how," modernity, efficiency, progress—this year's model, not last—these, and not reverence for things, are the keynotes of American life.

Not least bewildering is the fact that the citizens of those very countries into which we have poured our resources without clearly calculating the cause or the effect are loudest in calling us "materialist," in accusing us of "cal-

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culating" the cost of everything. They say we trade on the poverty, disease, starvation and backwardness of mankind. Other critics, however, reproach us for our fuzzy idealism, for taking the burdens of the world on our shoulders, for trying to subsidize the human race. Seldom has a nation been so bitterly reproached for possessing at the same time the deviousness of a Machiavelli and the innocence of the Good Samaritan.

BUT there have been, and still are, advantages in this vagueness about our national character. Because we have not been fenced in by rigid expectations, we have been free to be ourselves in a thousand different ways. The American representative abroad who is unclear about his role is at least not condemned to a stiff and "proper" role, like that which the British civil servant long played in India. We have been free to let our national image change with new opportunities, free to forget obsolete notions of ourselves.

There are also dangers. The greatest danger lies not in our uncertainty about the American character and American ideals, but rather in our feeling that we must act as if we were certain.

We judge American foreign policy not by whether it serves our national interest, but by whether it can be made to seem a noble expression of American ideals and the American character. We find it too easy to believe that because our definition of ourselves is imprecise, our character and our ideals can be universal. We confuse our foreign policy by supposing that it is not enough to get other people on our side, but that we must try to make them more like us.

Refusing to stand for anything so precise as our national interest, we are bewildered over what we do stand for. No wonder we are relieved to find a single enemy and to agree on what we are against. A foreign observer of American politics might call us a nation of "antis."

Our two-party system, different from that of any other country, is congenial to this way of thinking. Each party need only be against the other; neither need clearly define its own program. The anti-communism which now unites the American people is only the most recent example of our readiness to agree on what we are against.

IN this sense, the anti-Communist crusade of Senator Joseph McCarthy—like the anti-slavery crusade in the North and the anti-abolition crusade in the South before the Civil War, the anti-trust movement in the late nineteenth century, and the anti-munitions-makers and anti-war movement of the Nineteen Twenties—was in an old American vein. The "liberal" critics of Senator McCarthy (who were relieved to find anti-McCarthyism as their uniting slogan) wrote him off as an ambitious and ruthless politician.

Too few noted that the Senator's passionate anti-communism also expressed a pathetic and bewildered effort to protect what was "truly American," without knowing quite what it was that had to be protected. He was one of many Americans who have felt obliged to make up in passion what they have lacked in clarity.

Anxious search for a national character can make us tools for such American chauvinists, for men-on-horseback and empire-builders. It can kill the spontaneity, drift and unpredictability that have been

the promise of American life. The insistence on defining our purposes breeds the nervous insecurity that leads to persecution and the frantic search for heretics and traitors. It makes us haunt ourselves with a specter of "un-Americanism" at home while it leads us abroad into futile crusades against universal evils.

MOST of our politicians and our professors dare not admit that it is enough for us to go about our business, that we can improve our way of life without being able to describe our national character or our ideals. They must seem to have the grand view, to be taking thought and talking "principles." Probably the most difficult thing in the world is to make a powerful people renounce crusading and go about their own business. The most fruitless venture on which any people has ever engaged is the effort to sell an "American way of life" to people from the Himalayas to Timbuktu.

The openness, the imprecision, of our definition of ourselves is one of our great national resources. It can remain so only if we do not plague ourselves and confine ourselves by an imaginary image with which we hope to charm the world.

Const'l Law

Jurisdiction of the Sup. Ct.
Attacks on Sup Ct.
Unions and Supreme Court
Civil Rights
Civil Liberties.

~~Political Education~~

Political Questions
County Unit System

Political Action - Techniques

National Legislative Issues
Labor Relations Legislation

State Issues
Labor Legislation

American System of Government

State Government

Structure - Legislative Process
Finance & Taxes

Local Government

Working with Memberships

Unions & Politics

U.S., Wis, Southern

Wisconsin

STATE Governor
Legis.
Judiciary
State Bodies — Ind. Com. - FEPC
Hum Rights Commission
WERB

An System of Govt.

General - Background
Theory
Exec. Br.
- The Presidency
- The Cabinet
- White House Staff

Admin. Agencies
Legislative Branch
Legis Process
Congressional Leaders & Committees
Congressional Dist. Maps.
Voting Records -
Judiciary (See Const'l Law)
Supreme Court [Home]

Pressure & Parties
Legislative Process / Admin Agencies
Executive Functions
Const. & the Constitution
& Civil Liberties

Political Education
Techniques & Skills
Precinct Wk
Registration
Get out the Vote

Politics
Political Parties - General
2 Party System
~~2 Party~~ etc.
Pressure Groups - General

Business and
Labor and — Issues, Activity, Relation to Party
Southern
Voting - Trends - Studies — Extent - Behavior
Intergovernmental Relations
State Govts
Regional Compacts
Municipal Govts
County

$$\begin{array}{r} 4.68 \\ 7 \\ \hline 34.16 \end{array}$$

$$\begin{array}{r} 34.86 \\ 70 \\ \hline 34.16 \end{array}$$

$$\begin{array}{r} 78.10 \\ -.70 \\ \hline 77.40 \end{array}$$

Getting Out the Vote

Election Day is The Pay Off

Hdqrs in each Precinct (COPE)

Volunteers

- Checkers
- Telephoners
- Messengers
- Drivers
- Baby Sitters
- Poll Watchers
- Literature Dist.
- Sound Truck Crew

} Don't all have to be at Hdqrs. — Stand by at home (Drivers, Sitters)

I

The Canvass

Big push one week before election

Purpose:

a) How voter will vote

b) Remind to vote and at a good time
info on where & instructions

c) Does he need a Service (Ride, sitter?)

Would like to know <u>different ways</u> of raising money to help candidates friendly to labor.

Would you please give a clear definition of C.O.P.E. monies. How to use them best, etc.

<u>Types of Cope monies</u>

Legal use —

1.)

Cope Committee

1) registrations

2) Collected Funds to help elect favorable candidates

3) invited candidates to speak.

4) endorsed a slate of candidates.

2) <u>interest rank and file in political action.</u>

and to contribute financially to elect favorable candidates.

Kinds of Pol. Ed. or action by CWA Locals

1 members run for public office (Cleveland) 1
2. Letter writing campaign (8)
3. Registration campaign (8)
4. Vote campaign (8)
5 Endorsing Candidates (5)
6 Supporting Candidates (3)
7. Distribution of voting records (6) National State (5) + local (3)
8. Get to know candidates (for members) (7)
9 Publicity (8) bulletin boards 8
a Pol. party history local newspapers 3
cafeteria tables 6
be action letter (or 7 and bill)
c candidates back-ground & views

10 Discussion of voting record on the job. (1)
Voting record - ~~lunch~~ on job Lunch - coffee break.

11 Donated Subscription To Labor Materials (1)

CWA Legislative Problems

1 Lack of interest - lack of knowledge

2 Failure to have a legislative Committee

3. Failure in distribution of Pol. inf.
   a slow in getting to local
   b short stopped in local
   c doesnt get to the membership

4. materials not properly slanted - level.

5 Telling people to serve on leg com.

6 collecting money a special problem

Program Precinct — for week
— for Session

1) Kinds & Problems
2) Specific Study [Bob, Karen Klein st
Problems if suggests
How to be Critical
How to evaluate
3) Share experiences —
a) your views on choices
b) your problems
4) Summary

Minn / Mo.

In Party if your
and going to organize work
If community is
worthy of opposite possession

Kinds of Activity

[we know "realistic theory" — what's going to
work — organizing skills — Communication Skills.

Each of us different experiences

#2 — #2a

Where do you reach
who do you reach
Is independence important
can you work with a party

Local Lodge Vs. Precinct
City Body
Independent vs. Party

Voting Registration Issues

ENDORSEMENT Who Do you support?
Level
Kind of Candidate (Sheet # 3)

What issues
National — made individual
Local — if taken seriously (maybe for Precinct)

E.

Getting to know your Community

Party Structure

Visit places of local govt.

✓ Political Map

✓ Card File on Opinion Leaders

Where work

See EFV Files:

Handbook: "How To Win"

Order "Pressure Groups"
"You Can Win"

Political Ed.

Basic Skills

(Material) Writing — Ed. Method - How people learn — (Material)

Speaking — Discussion — (Material)

Personal Conversation — Films — (Material)

Getting Information

Making Committees Functioning (Material - Nannie?)

Political Skills - Organization

(Material) Election Calendar

(Pamphlet) Registration Campaigns — Files, Phoning, Home calls, Local - Central Clearing House

Contributions

Endorsement

Working for Candidate

Getting Out the Vote

(Material) Political Map — Districts, Dem v. Rep., Income — Education, ETHNIC

Political Skills - Precinct Work — (How To Win)

Political Skills - Lobbying — (Material)

Political Skills — Organizational Cooperation

MNPL - COPE
Union - Party
Union - Other groups.

Legislative Issues
Local - State - National
Picking - Mobilizing

American Political System
Qualitative Aspects of Democracy —

You have been thinking & studying about your union

Golf story -

Politics - what do we think about it?

What does Const. say about politics

What does local say about politics - Survey

(B.) Why Unions interested in politics
Legislation & Bargaining - PROBLEM of Reaching Member with image -

Broader Social ISSUES - interest in desire Support of others
What do you want - Can bargaining (wages) get it
How participate in "Big Democracy" - power concentration
Politics - public policy decisions

Pol. Ed as part of total Union Program

Getting Started - Start Small - Realistic Tasks
Have ideas Know Resources - Back with AFL-CIO Experience
Don't Be too Rigid - Relate to COPE - JOB Description

(D) The Political Action and Education jobs

Planning - Election Calendar

(E) Getting to know Community

MATERIALS & RESOURCES

Practice Sessions — film

+ — ○

1) ~~Working the Precinct~~

*2) Criteria for candidates — Double up on jobs

✓3) Get out the vote

*4) Materials

*5) Resources — School for Workers

Foto Art
Mike
Free Labor
films

6) Lobbying

* EVALUATION

Assign: Read Bill of Rts &
Bring in Questions

Parties

Standards in a Democracy
Danger of focusing on just one part of pol. process

Why labor in Politics

Where to work — local — Precinct
independent or through party

On what to work — education, action
issues — candidates
Votes — Registration

Start Small — Have Some Ideas
Back up with AFL-CIO Experience

Come Groups — Don't Be too rigid
Be realistic

Relate to COPE

Agreement on Program

Education — What
When
How

Registration

Get out vote

Election Calendar; when
event is needed

Job Description

Don't go off on your own

II) Congratulations & Satisfaction

Timing & Promoting

Details —

Advance Work

Organizing

Layout dates for stages

Publicity

Then The Pitch

Follow up.

(Call an EV for help)

CRITERIA FOR CANDIDATE SELECTION: What offices

1) Those who affect labor
2) " " Improve quality of Govt.
3) " " " " " " of particular job
4) " " Enable you to build pol strength.
(Consistent with overall aims)

who support
Labor guy
good guy
between 2 good guys in primary
Endorsing more than one candidate

II

C. Election Calendar — a way to organize

D. Getting to know your area — Maps —

Politicians

People — leaders & voters

Issues

Geographic area

Map — Income, Education, Voting (% < Low)

Card file on leaders — Who they are

How they line up —

PARTY Structure

Candidate selection

Materials IAM Ed.
MNPL

Services of Univ. Voters Consultation Surveys

Half Story — St Francis & St. Peter in Half.

Place in political life of Country — Community
Mass Organization in Mass society

One of Techniques is registration
There are other action and Education projects

Madison Area
Congrats —
Registration, phone Campaign
willingness to allow a survey
Don't lose the effect of this past work
85% of registered voting
Fairly high % registered

Training programs
(a) Interested
(b) Don't understand what's required
(c) Can't articulate

Some doubts as to effectiveness
But everything counts
Phoning — Short comings
Address Change
Local Union activity
follow up & responsibility
Coop with COPE — your outfit
Local follow through
Precinct work — Not Buy

Prepare your Committees — Training for local Action

Half: 2 auto key
Golf ball

"Meet the Press"

~~Hoard~~ { Hragy Ogard
Lake

On Topic of increasing importance to Labor Movement

Introduce Panel
will have discussion at end

~~Ed Fink~~ voting records
food stamps
~~Funds for candidates~~

open

Not just individual labor

Charlie Schultz —
[Prop. — Sacher]
$50, T to P.

Rt to wk & 14b

intimidated P, collected more by going to individual union guy than he needed —

Kennedy — Ernie

MNPL

Importance of Politics to Labor

~~295,000 Rt to wk~~

~~Hragy~~

~~Labor Victory~~

where does power of government reside — Type of Issue / Timing
where should power of govt. reside

Bureau of Budget → from Ex. depts
↳ checks bills for consistency with Pres's program

Exec. increasingly important in initiating legis.

Admin. is a major lobbying group.
Phone calls
Speeches
Expert testimony
Admin clientele
Bill drafting by legal offices of agency

"New Federalism" — The Parties
"Split Ticket Government"

Pressures on a Congressman

Friday - Pol. Participation Workshop

Letter writing
a) a first step in pol. participation
you do it, until it become easy.

b) part of an organized campaign - support for
Lobbying -
Practice sessions
Digest the issues

Do's & Don't's in Lobbying
Criteria for Candidates

Election Calender
Gateway to year round programing -

(Materials)

#3

Local union work
Precinct work
City Party work
MNPL - COPE etc.
Infiltrate Party
Tool of Party —
Local traditions vs. National Politics &
Problem of Parties —

Session on Choice — Where Work —

* Which offices do you seek to elect or influence
1) Those having to do with labor policy
State legislators
Congressmen
Senators
President
Local - Mayor, Aldermen for Some Unions

2) Those who can improve quality of part.

3) Those who can improve quality of particular key job.

4) Those which enable you to build political strength (Consistent with overall aims etc) regardless of importance of job to labor.

Do you support good men, our labor guys, make a choice between 2 good men (in Primary? Between the parties?)
Endorsing more than one candidate — lumping the vote
making enemies (losing friends) vs. winning —

EV
Dept of Just attacks on FCC, AT&T

Fast finishers, Intensivity of G.O.P. would be defeated by Tc action for first time since 1912 —

Nixon popularity with regular Rep. voters —

Mid-west, West, business and Isolationist (the Kitchen Cabinet group) — goes to Nixon or Rockefeller

Tragedy of politics

Unions have been interested

Special effort —

Chances of Rep. is greater

U.S. preference for two-party politics (Both & power)

Presidential

Party Trends

Voting Trends

Issue Trends

Dems. — have more actual and inactive candidates (Hugh, William, Hand, Johnson, Meyner, Stevenson, Symington, Pat Brown of Calif.)

least qualified will emerge from a deadlocked Conv. — Symington. No one knows where he stands

EV
Symington's pol. strength?
South
— Truman

Kennedy — Money, gen; has held Dems — more liberal since 1956
strategy of Primaries gets people tired — N.H. on Feb. ff.

Eugene McCarthy is perhaps best senator of either party —

EFV
Will Rep escape any effect of "corruption"

Party Trends:

Dem Party

1) Dem. Advisory Council (Butler, Rosenberg, Truman) — speaks for presidential wing of the party
   a) probably will come out outspokenly liberal
   b) more outspoken in criticism of Dem. Leg's leadership — (Rayburn, Johnson, Mansfield)

2) Dem. Nat'l Committee
   will rec. adopt "loyalty oath"

3) Another 3rd party movement in South
   Secessionists move
   S.C. Ga. Ala. Ark.
   La., Miss.,

   ? 2 or 3 school opening

   might magnify voting power in Elec. Coll. or if thrown in H.R.

4) Re-alignment of some Southerners with Westerners —

{ under Zeph (?) Cd. Dem Com — trying to build Dem. Cont.

August 13th

Ike

Vote together
airport
public power
some Urban renewal

Voting —
Split ticket voting is up —
Preference for split party control
x This is a trend to watch to see if it increases.

5 Rep. Cong. from South —

? { Atlanta endorsement "Street" 4 yrs ago
CIO and NAACP endorsement

No continuation of Rt. to work (national level) — But a "bill of Rts." and will tient Rts with dimints — Candidates accept

Economic issues

Reformer

Attacks on monopoly power — failure of anti-trust policy.

16 years of merger

Must (hopefully) break out of economy trend — The has sold & Dem. Cong. leadership has bought —

May — but not likely —

Restore more central meaning to our lives —

The threatened vaguely to appoint a committ

water power, pure water, School problem.

Roosevelt did (Recent Social Trends" — set some of lines for New Deal — a group of "experts" and "technicians" called together to assess what was needed when we were headed —

New politics leans: Politics is free enterprise

Party can't help or hurt much

Defeat of
Scott Lucas
Knowland
Ferguson

FDR

American ~~pol~~ folklore favors individualism against collectivism
Especially in politics

WHAT YOU WANT FROM "LIFE" — (52 issues a year)

MANY ANSWERS RELATE TO "Physical Security" (MORE)

Health

Police Protection

National Defense

Old Age Benefits

Job Security

- Coll. BARG.
  - INTERNAL Union Strength
  - Legal Rights
    - TO BARGAIN
    - Union Security
  - STATE OF ECON (Nat'l, Local)
- Ability
- Tech. change
- Health
- Legal Protections
  - Union Rights
  - Recourse to Courts
  - Work. Comp.
- State of the economy

What you want

If put in terms of Community — GOVERNMENT (Type)

FREEDOM — JUSTICE — Equality of Opportunity

But on probing — Surprised if not some MENTION OF GOVT. ROLE TO "PHYSICAL SECURITY"

THIS PROJECTS US INTO PUBLIC POLICY

WHAT SHALL (AND FOR WHOM) COM. & GOVT. BE USED

EVERYTHING CONG. DID WAS PART OF POL. SYSTEM
MOST OF WHAT IT DID AFFECTED ECONOMIC SYS.
1. Directly — aimed in that direction
2. Indirectly — gov't expenditure & Policy

IMPORTANT TO DISCUSS ECONOMY
PROVIDES FRAMEWORK OF WHAT'S POSSIBLE
DESCRIBED IN GENERAL TERMS
Big — Geographic Area — 180+M people
G.N.P. $500 B+
This MEANS 7% of world population
50% of world product
LARGELY "Self-Sufficient" — 5% of GNP INT'l Trade
CHARACTERIZED By "EMPLOYEES" — only 20% run own
(7% of these Farm) — others work for others
MIXED — Capitalistic, Non-Profit, Gov't.
Consumeristic — NEARLY 65% of GNP Bought By
Gov't — State (9) — Fed (11) — 20%
Business — 15%
Bouyant — how much? — "high-level" Stagnation

PROBLEMS
Growth — Needed 5% of GNP — 1) Population
2) Not Now Getting
3) 26,000 Jobs s/wk
— unemployment our most visible sign
Price Stability — "Run away inflation"
POVERTY [WEALTH DISTRIBUTION]

1) Am. Pol. System

2) Relation between Unions & Legislation
└ Legislation & Politics

3) Legislature make up

4) Legislature procedure

5) Political Dates

Exhibits

Legis Ref.
WMA – pix
Taxpayers – Districts

Hand-out – How Bills
Become Laws.

"How do we get laws" [State & National]

Am Political System — Process

Groups — Pressure — vs. formal analysis

What do you want?

Citizens — Can you get it alone?

Unionists — Legislation & Bargaining

Nat'l
- Agency — Ry Labor Act, L-G
- Process — " " " "
  (Disputes Settlement)
- Issues — Wages,
  Railway Retirement
  Type of ~~Bargain~~ Union Security
  Working Conditions (Safety, W.C.
- Economy — U.C.

State → Also Safety

Job availability — influence on Service

#2a

IMPORTANT TELEPHONE NUMBERS AND ADDRESSES FOR

REFERRAL OF PERSONAL PROBLEMS [in Illinois?]

COMMUNITY SERVICES COMMITTEE — RAndolph 6-7022
Cook County Industrial Union Council, CIO
205 West Wacker Drive -- Room 1200
Chicago 6, Illinois

Lawrence Keller
Paul Iaccino

COMMUNITY REFERRAL SERVICE -- Room 500 — RAndolph 6-0363
Welfare Council of Metropolitan Chicago
123 West Madison Street
Chicago 2, Illinois

Handles all your referrals to social agencies.
Gives information on agency services.

CHICAGO DEPARTMENT OF WELFARE — CHesapeake 3-4600
Application Division
25 South Damen Avenue
Chicago 2, Illinois

Administers general financial assistance and related services to eligible applicants.

SUBURBAN PUBLIC ASSISTANCE

These offices administer financial assistance and related services to eligible applicants.

Berwyn (Berwyn Township)
Harold R. Collier, Supervisor
6600 West 26th Street
STanley 8-6600

Blue Island (Calumet Township)
Michael Guglielmucci, Supervisor
2210 Vermont Street
FUlton 5-0264

Blue Island (Worth Township)
Christ Rust, Supervisor
13314 South Western Avenue
FUlton 5-1770

Chicago Heights (Bloom Township)
Mrs. Mary L. Robbins, Supervisor
1906 Halsted Street
SKyline 5-1318

Cicero (Cicero Township)
Ted J. Zaremba, Supervisor
5125½ W. 25th Street
OLympic 2-0917

Elmwood Park (Leyden Township)
Adolph J. Bochte, Supervisor
7538 Grand Avrnue
GLadstone 3-1417

Harvey (Thornton Township)
Wm M. Winterhoff, Supervisor
15334 Park Avrnue
Harvey 1090

La Grange (Lyons Township)
Mrs. Kathryn K. Maley, Super.
45 S. La Grange Road
La Grange 128

Melrose Park (Proviso Township)
Chester Carson, Supervisor
1904 Main Street
FIllmore 3-2300

Oak Park (Oak Park Township)
H. L. Judd, Supervisor
1046 Pleasant Street
EUclid 6-7642

Elmhurst (Addison Township)
John J. Kelly, Supervisor
146 Columbia Avenue
Elmhurst 418

Elmhurst (York Township
Roy C. Blackwell, Supervisor
109 E. First Street
Elmhurst 7050

Posen (Bremen Township)
James W. Jesk, Supervisor
14346 S. Campbell Avenue
FUlton 5-2111

River Forest (River Forest Town.)
John A. Klesert, Supervisor
7709 Lake Street
FOrest 9-6810

Stickney (Stickney Township)
Herbert R. Maid, Supervisor
6721 West 40th Street
STanley 8-9100

SOCIAL SECURITY ADMINISTRATION
Federal Security Agency

These offices administer financial assistance and related services to eligible applicants.

FIELD OFFICES IN CHICAGO

79 East Adams Street (3)
HArrison 7-7365

417 East 47th Street (15)
LIvingston 8-6200

1045 West Lawrence Avenue (40)
LOngbeach 1-9262

225 North Pulaski Road (24)
NEvada 2-3780

703 West 66th Street (21)
WEntworth 6-6200

1425 South Racine Avenue (8)
MOnroe 6-9436

1608 N. Milwaukee Avenue (47)
EVerglade 4-4120

5306 West Lawrence Avenue (30)
SPring 7-3413

7508 South Saginaw Avenue (49)
BAyport 1-7860

SUBURBAN OFFICES

Aurora
2 North Broadway
Aurora 2-4201

Cicero
2137 South Lombard Avenue
OLympic 2-3683

Evanston
1603 Orrington Avenue
UNiversity 4-7237

Gary
115 East 6th Street
Gary 6269

Hammond
507 State Street
Sheffield 2821

Harvey
178 East 154th Street
Harvey 1389

Joliet
201 North Ottawa Street
Joliet 3-9353

Oak Park
901 Lake Street
EUclid 3-1970

SUBURBAN OFFICES CONT.

Waukegan
326 North Genesse
Ontario 2-6595

ILLINOIS DEPARTMENT OF LABOR

DIVISION OF UNEMPLOYMENT COMPENSATION
Local Offices in Chicago

Local Office No. 2
4841 North Western Avenue (25)
ARdmore 1-9000

Local Office No. 5
1608 West Adams Street (12)
2nd Floor
MOnroe 6-9277

Local Office No. 8
4733 South Parkway (15)
DRexel 3-7500

Local Office No. 10
862 East 63rd Street (37)
BUtterfield 8-5200

Local Office No. 12
3041 East 92nd Street (17)
BAyport 1-3737

Appeal Section Office
1608 West Adams Street (12)
SEley 3-4622

DIVISION OF WOMEN'S AND CHILDREN'S EMPLOYMENT

160 North La Salle Street (1)
FInancial 6-2000
Supt., Mrs. Gladys E. Specht

ILLINOIS STATE EMPLOYMENT SERVICE

Northside Industrial Branch Office
654 West North Avenue (10)
MOhawk 4-3500

Southside Industrial Branch Office
6321 South Ashland Avenue (36)
HEmlock 4-6200

Central Branch Industrial Office
901 West Jackson Boulevard (7)
CAnal 6-4441

South Chicago Office
3039 East 92nd Street (17)
BAyport 1-3737

Professional-Sales-Clerical Branch Office
73 West Washington Street (2)
FInancial 6-3960

SUBURBAN OFFICES

STATE EMPLOYMENT SERVICE AND DIVISION OF UNEMPLOYMENT COMPENSATION

Cicero
2242 South Cicero Avenue
OLympic 2-4200
(BIshop 2-2440 -- Chicago Line)

La Grange
561 West Hillgrove Avenue
La Grange 4726

SUBURBAN OFFICES

STATE EMPLOYMENT SERVICE AND DIVISION OF UNEMPLOYMENT COMPENSATION

Evanston
1564 Sherman Street
UNiversity 4-3530
(HOllycourt 5-0253 -- Chicago Line)

Oak Park
807 West Madison Street
Oak Park, Illinois
EUclid 3-1663
FIllmore 4-6880
(ESterbrook 8-2463 - Chicago Line)

ILLINOIS DEPARTMENT OF LABOR

ILLINOIS INDUSTRIAL COMMISSION

This office administers the Illinois Workmen's Compensation Act and also its companion Ace, the Occupational Diseases Act, and makes Health and Safety rules.

160 North La Salle Street
Chicago 1, Illinois
FInancial 6-2000
Chairman, S. J. Holderman

DIVISION OF FACTORY INSPECTION

This office inspects Illinois industrial establishments to enforce the Health and Safety Act; Structural Law; Wash House Law; Wage Payment Law; and Bedding Law.

160 North La Salle Street
Chicago 1, Illinois
FInancial 6-2000
Chief State Factory Inspector, Felix F. Kucharski

POLITICS AND THE CORPORATION

ANDREW HACKER

An Occasional Paper on the role of the corporation in

The Free Society

The Fund for the Republic

This is one in a series of Occasional Papers issued in connection with the Fund for the Republic's study of the basic issues underlying a free society. This study is directed at clarifying fundamental questions concerning freedom and justice that emerge when the forms and principles developed by eighteenth century America meet the ideas and practices of today's highly developed industrial society.

The task of clarification is being undertaken by ten distinguished Americans acting as a Central Committee of Consultants to the Fund. One of the areas being studied by the Consultants is the role of the corporation in relation to individual freedom. In connection with this work Andrew Hacker, assistant professor of government at Cornell University, has prepared these comments on corporate employment and democratic citizenship.

The Fund for the Republic is a non-profit educational corporation established to promote the principles of individual liberty expressed in the Declaration of Independence and the Constitution. Contributors to pamphlets issued under the auspices of the Fund are responsible for their statements of fact and expressions of opinions. The Fund is responsible only for determining that the material should be presented to the public as a contribution to the discussion of the Free Society.

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The growth of the corporation in America has brought profound changes in our political life. For a long time political scientists have been pointing to activities like those of the National Association of Manufacturers in the lobbies of the Congress, but what is only beginning to be observed is the political impact of the corporation on those who work for it. Corporation employees, like all other Americans, are citizens, and students of politics are beginning to ask how compatible the imperatives of corporate employment are with the requirements of democratic citizenship.

The best way to answer this question is to take a good look at the emerging middle class in this country. This is made up of the corporation employees in the white-collar, middle-management group. How does their status in the corporate hierarchy affect their role in politics? As a prelude, it might be well to sketch in the outlines of democratic political institutions.

POLITICAL PARTICIPATION

Not so long ago, Joseph Wood Krutch amused himself and his readers with an article called "Whom Do We Picket Tonight?" Gently but firmly, he spoofed those who are so engaged with the problems of the day that they feel compelled to spend every evening on the political battleline, passing resolutions or picketing concert halls rather than staying at home with a good (non-political) book. The good society, Krutch suggested, needs a measure of apathy and indifference.

But is it right to say that today our society needs less, rather than more, political participation by its citizens? Picketers and petition-signers may be figures of fun, and, one must add, the methods they choose are usually ineffective. However, it is more important to note that the non-participant—the fellow who stays at home with a good book—may be riding for a fall, especially if he is among that segment of the population which a democracy has traditionally called upon to serve in the political arena.

Democracy has always placed a premium on individual participation in the process of self-government. The demands it makes on its citizens are rigorous, but the rationale for such demands is persuasive: If political power is going to be exercised over the lives of individuals, it ought to be legitimate power. When the government compels the citizen to pay taxes, swear an oath, or enter military service, he should be able to feel that the power behind those directives is rightful power. A democracy legitimizes power by ensuring that the laws reflect the will of the majority of the community. It strives to achieve this by providing institutions—legislatures, elections, political parties—which will make those who write and enforce the laws accountable to those whose lives the laws affect. Only a democracy has the means of assuring that power will not be autocratic or oppressive. The citizens of a democracy will make mistakes, but the mistakes will be of their own making, and ones that can be corrected.

Almost all political scientists agree that a single institution lies at the heart of democratic politics. This is the political party. It is the mediating force between the citizen and his government. Its chief function, of course, is to decide which men will fill which political offices. But the Democratic and Republican parties in America play another role too. They are the outlets through which the ordinary citizen can take part in the political process. Both parties are, by and large, "open" institutions. That is, at the local level—and this is the level that counts—party organizations welcome any and all who wish to join the ranks. It has been traditional in America for politics to provide a ladder of opportunity for people who find other fields closed to them. From the Irish immigrant in Boston in the nineteenth century to the Negro in Atlanta in the twentieth, the political gates are usually the first to open to the otherwise déclassé.

There is a good reason for this. The job of the party worker is to accumulate votes. And votes, unlike high incomes or respectable pedigrees, are distributed on a one-to-a-person basis. Not only do our parties dispense with membership requirements; the opportunity to rise in the hierarchies is remarkably free. To be sure, rich men frequently gain easy preferment, but virtually anyone of middling talent—and small income—who is willing to devote his time and energy to politics can become a member of a county or state committee or even a candidate for office.

We have a habit of denigrating such political participants as party hacks or seekers after spoils. Many of them are no more than that. But the reason that professors of political science constantly stress the importance of party activity is that such participation is the only way to be effective in the process of self-government. Of course, other methods of exercising influence exist. The citizen can sign petitions, write to his Congressman, and give money to one cause or another. He can join a pressure group and hope that it will speak for him in Washington. And he can always vote. But students of politics have always contended that these methods of participation are secondary. Petitions and letters carry little weight. Most citizens simply do not have pressure groups to act as their spokesmen. And, except for an occasional contested primary election, the vote is cast for one of two candidates, previously selected by the party organizations. For these reasons, if a citizen is to have a significant voice in making the political decisions that will affect the course of his life, he must ally himself with one or the other of the parties.

Without parties, self-government is impossible. Totalitarian countries, with their "one-party" systems, cannot be democratic. In the final analysis a democracy must be judged by the degree to which its citizens participate in the governmental process through the agency of the party system. Lack of participation thus is a democratic problem, for only a democracy has to worry about whether its citizens take part in the process of self-government.

It is true that throughout history the vast majority of people have stood by passively while a select few made the political decisions, and no one worried about it because no one judged the system by democratic standards. And today, in totalitarian societies, while there is avid "participation" in the whole gamut of governmental and "party" organizations, the decisions are still made by the few. In the Soviet Union a party congress is a ratifying agency for policies already made by a small ruling group; the "self-criticism" sessions in the local cells are more manipulative and cathartic than they are agencies for self-government. Yet no one, again, worries much over the pseudo-participation that goes on in a totalitarian one-party system. No one expects the average Soviet citizen to be consulted on matters of policy or personnel.

All this needs to be said simply because participation is a matter for concern in a modern democracy like the United States as it is in few other societies. If we see evidences of apathy or indifference, if we settle for the trappings of pseudo-participation—these are danger signs for a democracy as they are for no other political system. And if these signs are particularly clear in America's middle class, the danger is even greater. For, if democracy theoretically means government by all the people, historically the Western conception of it has frankly admitted its middle-class basis. The middle class has always played a very special role in government and politics in America, and any examination of American democracy as it is today must give serious attention to this segment of the population. It is a segment whose increase has recently been tremendous and whose character is very different from the "middle class" this country once knew.

THE NEW MIDDLE CLASS

We have begun to learn a good deal about a group of Americans who have sufficient characteristics in common to be considered a fairly coherent group. David Riesman, William H. Whyte, Jr., and C. Wright Mills have chosen them as subjects for intensive study. Russell Lynes, A. C. Spectorsky, and John Keats have made them objects of light yet penetrating satire. John P. Marquand, Cameron Hawley, and Sloan Wilson have used their moral dilemmas as vehicles for fiction. The "other-directed man" and the "organization man" have become objects of widespread attention. The justification for scrutinizing this new class of Americans is not so much that its members are typical as that they are prototypical. It is less an existing class than one that is in the process of becoming. The sociologist studies the suburb and the novelist depicts the corporation because these are the waves of the future. More and more Americans, it is safe to say, are going to enter corporation employment and take up the suburban way of life. We had better begin to understand them now.

The student of politics has a further interest in this emerging middle class. From Aristotle to the present, the major characteristic of Western political thought has been a distrust of two extreme forms of government: rule by a limited aristocracy on the one hand and unlimited popular rule on the other. Aristocracies have invariably shown that they are incapable of perceiving the needs of the majority of the people in the community. This has been true of aristocracies of wealth, of military men, and of priests. The science of politics has yet to turn up a class of philosopher-kings who can rule in the interests of all the people. On the other hand, unlimited rule of the majority, without safeguards for the protection of minorities, easily becomes majority tyranny. The basic thinking of political theorists has shied away from these two extreme conceptions of rulership. This was the unstated assumption of John Locke; it was the very explicit assumption of the founding fathers in 1787. The logical conclusion has been to say that only the middle class can be trusted to avoid the narrow self-interest of an aristocracy and the exuberant excesses of the mob.

It is against this standard that we must judge the American middle class of today—and tomorrow. How far is it able and willing to assume the political responsibilities that have traditionally been assigned to it in a democracy? The best way to approach this question is to examine the middle class in terms of its size, its location, and its economic status: the middle class is large, national, and propertyless. It is these attributes which give this class its political significance.

A LARGE MIDDLE CLASS

There is no sure way of determining the size of any social class. While it might be possible to estimate the "upper class" by counting the listings in the *Social Registers* of our major cities, there are no comparable statistics for the middle class. We know how many people receive salaries rather than wages, how many earn more or less than $5000 a year, and how many answer to rough "middle-class" job classifications. There is more argument than agreement over these indices, but one index does suggest how much the middle class has grown in recent years. Of the college-age population at the turn of the century, fewer than 5 per cent were attending college. In 1957, the figure was 32 per cent. We will soon have a college-educated group of at least a third of the population, and it would be safe to say that virtually everyone in this category is middle class. The point is that 32 per cent is very large indeed. The middle class in previous centuries was a fraction of that size.

However, the more one tries to estimate, the more confusing the picture becomes, because we are dealing not with a single, homogeneous group but with three different layers of people whom the sociologist identifies as the lower-middle class, the middle-middle class, and the upper-middle class. The lower-middle class would include most of the people who earn salaries rather than a wage, who wear white collars, and who think of themselves as middle class. This group would include salesmen, clerks, and various semi-professional people. This is the group analyzed in detail by C. Wright Mills in *White Collar*. The modern middle-middle class consists of junior executives, professional men and women, and those in various managerial capacities below the policy level. These people are college-educated, residents of suburbia, and increasingly identified with large organizations, especially the corporation. They are described by David Riesman in *The Lonely Crowd* and by William H. Whyte, Jr. in *The Organization Man*. The upper-middle class is a smaller group consisting of top executives, owners of small businesses, and well-paid professional men. Because America does not have much of an upper class, virtually anyone of parts who falls short of the millionaire category is placed in the upper-middle class. Hence the corporation executives studied by *Fortune*, the higher military brass, and top civil servants would have to be put in this group.

Our concern is mainly with the group in the middle of the middle class. If we assume that about 60 per cent or 70 per cent of the people are in the middle class as a whole, then it can be estimated conservatively that about 25 per cent or 30 per cent fall in the middle-middle category. The point, however, is not the present size of this group but the fact that more and more people are entering its ranks as each year goes by and that this is the group which should be playing the dominant role in politics.

It is the large national corporation, more than any other single social institution, that has brought about this middle-class explosion. The corporation has recruited millions of new employees into its ranks and in the process has endowed a whole new segment of the country with middle-class status. It has attracted people who in an earlier day would simply have

stayed at home. In the past an upper-middle class boy might go away to college but after graduation he would return home and enter the family firm. A working-class boy on the other side of town would find local employment and never leave a fifty-mile radius of where he was born. Today, both leave home and both find employment with a national corporation. This severing of local ties has thrown the traditional disparate classes into a single grouping. Away from home, the proprietor's son and the laborer's son look much the same.

Furthermore, the corporation has not only opened its gates to a whole new constituency but redefined its managerial class in such a way that it now includes a far larger proportion of the working force than before. The expansion of the market for specialists and technical personnel has revolutionized the traditional limits on middle-class membership. The fruits of corporate employment are too tempting for most young men to resist. After a tour in the army and four years at college – both new experiences for new segments of the population – these young men cannot go home again. Whether their origins were the Bronx sidewalks or the Iowa farm, they have renounced the past and joined the corporation.

It will not do to say that the decline of agriculture has cut down gainful employment on the farm. Nor will it do to say that the experiences of college and military life have made young men more willing to embark on new adventures. These are contributory factors. The significant fact is that the corporations have been able and willing to provide middle-class roles for those who have been alienated from their traditional surroundings. The members of today's middle class are new people. Not born into middle-class status, they must learn a new way of life.

A NATIONAL MIDDLE CLASS

One of the attributes of this emerging middle class is its transiency. Uprooted from the small town and the urban slum, these "new people" are prepared to sever their old attachments and to move to new locations. Almost gypsy-like in their willingness to pursue their careers in whatever part of the country their corporate employer sends them to, they become truly national in their citizenship. A man who once claimed Flatbush or Fayetteville as his home now looks upon the whole country as his residence. The question arises: Is it possible to be a citizen of a huge nation in any but the most formal of senses? Can national citizenship substitute for a concept which has always had its focus in a local area?

The great philosophers of citizenship – Plato, Rousseau, Jefferson – insisted that good citizenship required a small community setting. The relation of citizen to citizen, and hence of authority to the individual, had to be intimate and face-to-face if citizenship was to mean anything. In America the town meeting was set up as an ideal, just as the marketplace of ancient Athens had been two thousand years before. The local community continues to be stressed by modern thinkers of all ideological persuasions. Writers who are otherwise in complete disagreement – such as Erich Fromm, R. A. Nisbet, and B. F. Skinner – all emphasize the fact that citizenship lacks vitality outside the context of a small and coherent community. Having severed the bonds which held him to a particular locality, the transient employee of a national corporation must find a substitute attachment to give him communal roots. There are signs that a new form of functional, or corporate, citizenship is arising to replace local or regional citizenship. Whether democracy, which was built on the idea of local loyalties, can survive the shift to corporate loyalties is a question to which we will soon have to find an answer.

At the same time that the transient middle class has followed the corporation's marching orders to all parts of the country, the standardization of men and materials necessary for national corporate operation has blurred the pluralistic character of the country itself. For example, while small local businesses continue to flourish on the statistical tables, the corporate character of the economy has sapped such enterprises of much of their independence and identity. The local tradesman sells commodities which are packaged and priced by a national corporation. The local manufacturer acts as a supplier to a single national firm. The statistics on small business do not tell us about the qualitative changes that have taken place. Pluralism, to have significance, calls for a measure of autonomy in the constituent units. The operation of the national corporation undermines the possibility of such autonomy.

In the face of this trend it is curious that so many commentators of the American scene continue to praise the pluralistic nature of our society. Max Lerner, for example, exalts "the richness of racial and ethnic mixture which is part of a larger pluralism of American life – a pluralism not only of stock but of regional environments, of Federal political units, of

economic forms, and of religious sects." Such a conception tends to magnify what have become, in reality, superficial characteristics. Does it actually matter that we can be Methodists or Lutherans, that we can hale from Ohio or Oregon, that our grandparents were Germans or Swedes? These pluralistic features may add color to the national scene, but their influence is more apparent than real in a nation caught in the onrush of nationalizing institutions.

William S. White made an 18,000-mile swing around the country for *The New York Times* in late 1956. There now exists, he reported, a creature we must call the Consensus American. "It is an experience of bittersweet quality," he said, "to feel able to report that *homo Americanus* is now an exact as well as a mere sociological term. The kind of sectional divisions that were arrestingly sharp as recently as fifteen years ago, and vestigially evident as recently as four years ago – these now are all but gone." If America is finally settling down to become one nation, the large national middle class is clearly in the vanguard of this development.

A PROPERTYLESS MIDDLE CLASS

Even more important than the size and transiency of the emerging middle class is the fact that its members are not men of property. The concept of property has been an inseparable part of political theory since the close of the Middle Ages. "As the feudal system merged into the king state," A. A. Berle has written, "the revolutionary doctrine that there should be private property began to assert itself, reaching a high degree of philosophical justification in the middle of the eighteenth century when the French physiocrats declared that if a man was to be free, able to speak his own mind, depict his own thought and develop his own personality, he would have to have a base apart from one that was politically or ecclesiastically organized and controlled."

The rationale for private property is as valid today as it was two centuries ago. The man without property is powerless and defenseless. Property is – to mix metaphors – both a hedge and a pedestal. It is a hedge in the sense that it provides an area of freedom for the property-owner. Inside this hedge – small or large – the owner is free to express his own personality. To be sure, government and society, trade unions and other property-owners are all liable to intervene in the sacred domain. Nevertheless, the principle of property is that you are free to do as you like in your own holding. Property is also a pedestal in that it gives its owner an extension of his personality, something more to stand on than his own two feet. Men and women with property automatically have more power – and usually more prestige – than those without it. To paraphrase George Orwell, the possession of property makes some men more equal than others.

"It may be a nuisance sometimes not to have a private income," C. P. Snow has one of his characters, a young graduate of medical school, say after being disinherited by his wealthy father. "I mean there are times when it's valuable for a doctor to be independent of his job. He can do things and say things that otherwise he wouldn't dare. Some of us ought to be able to say things without being frightened for our livelihood." Independence of mind, freedom of action, can only result from possessing a source of income which is securely one's own. This is why Jefferson called for an America in which everyone would be a property-owner. It is idle to call on propertyless men to be heroes or martyrs. One in ten thousand will answer such a call, and he will do it for reasons which are both unpredictable and highly personal in their origin.

The small middle class in the eighteenth and nineteenth centuries was a propertied class. Rugged individualism and the Protestant ethic were created for this secure and independent group. Can we exact the same standards of conduct from a middle class which does not have the security that comes from ownership of property?

FROM CONTRACT TO STATUS

The corporation has become a social system in a more profound sense than ever before because its members are more than ever before in need of the social satisfactions that only the corporation can provide for them. If they seem to enjoy the life that their company provides for them and if they endow it with an ethical sanction, they ought not to be condemned out of hand for violating the creed of another age. They do not accept this new kind of life because they are necessarily made of flimsier material than their fathers. The man without property must work for someone else; the man without community ties must find them wherever he can.

There is no need to rehearse in any detail the characteristics of modern corporate life. The middle-class

employee of the corporation—white-collar or managerial—is treated as more than a contractual hand. He possesses status as well as contract, for the corporation has begun to assume rather broad obligations toward him, regardless of his value to—or even his performance in—the company. The member of a contract system is regarded simply as an employee, whose contract with his employer lasts as long as he does his job. The member of a status system is regarded as a person: the benefits he receives stem less from his performance as an employee and more from his status as an individual.

One of the surest signs of this movement from contract to status is the fact that large numbers of college graduates consider their first job offer in terms of its becoming their lifetime career. Corporations are tending to promote this idea. Herrymon Maurer, writing in *Fortune,* describes the prospects for a young man who enters the corporation world. "To be sure," he says, "some large companies will hire men two or three years out of school, and a few will take them even after five years. But almost all of them hold to the policy of promotion from within. The typical student, who spends two years in military service and roughly as much time in company training programs, has only a limited chance to shift to another large corporation. He can, it is true, shift to a smaller one. But for the bulk of the men who aspire to a big-business career—and for the bulk of the companies hiring them—the year of college graduation is the year of decision."

The shift from contract to status should not be pushed too far; after all, the idea of status was designed to describe the legal system of feudal times. But the conditions for a status system include long tenure and low turnover; and corporations today seem to be encouraging long-term employment, just as their employees are more and more accepting a lifetime commitment to a single employer.

CORPORATE CITIZENSHIP

The philosopher of the status idea was Elton Mayo of the Harvard Business School. The traditional idea that each man ought to be on his own Mayo disdainfully called the "rabble hypothesis." Rather, he and his colleagues at Harvard insisted on the corporation's obligation to treat each employee as a creature with an ego of his own. In analyzing the impact of technology on the individual, Mayo suggested ways to restore the feeling of belonging which the rapid changes of our time have tended to destroy. "For all of us," he wrote in *The Social Problems of an Industrial Civilization,* "the feeling of security and certainty derives always from assured membership of a group." It was the corporation's job to create group situations which would enable employees to earn the esteem of their fellow employees and feel that they were respected by management. The corporation was to offer its members psychological security through encouraging the group way of life. While Mayo was interested in raising productivity, lowering absenteeism, and keeping out unions, he was also offering a systematic analysis of the impact of industrial civilization on human beings.

Mayo drew on the conservative French sociologist, Emile Durkheim, in an effort to show that we all suffer from *anomie.* That is, industrial societies, more than others, suffer from moral deregulation, or the lack of assured norms to which all might look for guidance. Mayo might have been embarrassed had he known that he was also using the ideas of a radical German sociologist—namely Karl Marx—when he demonstrated how industrial society "alienates" its inhabitants from the product of their labor. An industrial worker does a piecemeal and specialized task, and seldom sees the end product or the ultimate purpose for which he is working. The only way to combat this anomic and alienated existence was to help the worker to make a deep-seated adjustment to a group way of life. This was the corporation's job because no other institution was capable of doing it.

Today Mayo's ideas have come to be applied to white-collar and managerial employees as well as to the assembly line. Managers and workers alike are uprooted in a transformed society, but it is the former—the middle class—even more than the latter who seek adjustment and new roots because of the profound changes they have undergone in environment, expectations, and status.

By now we all know about the social facilities provided by large corporations. Eastman Kodak's medical plans, I.B.M.'s country clubs, Richfield Oil's model homes, du Pont's psychiatrists, Reynolds Tobacco's chaplains, and even R.C.A.'s neckties with their corporate insignia—all of these are symptomatic of the concerted effort to create a feeling of community within the corporation. They have been brought about in large part because the middle-class employee has no alternative community to which he can find a sense

of belonging. The national government—as socialists throughout the world have discovered—is too large and unwieldy to provide satisfaction; and local governments are too weak and ineffectual to cater to such deep-seated needs. Government provides various welfare services at various levels, to be sure, but they are far from the sort of programs needed to meet the social and psychological needs of the middle class. Indeed, it is doubtful if the government of a free society should undertake responsibility for ensuring, say, the mental health and social adjustment of its citizens. Such programs are perhaps possible only in a totalitarian society.

Some years ago the late Russell Davenport, in a *Fortune* article entitled "The Greatest Opportunity on Earth," declared that the corporation is the institution that should build a community setting. If the government attempted it, the coercive power of the state would always lie behind the services provided. The corporation, essentially a voluntary association, would bear no such stigma. Davenport also pointed out that the corporation, by virtue of its decentralized organization, could create the conditions of community at a variety of local levels. While a centralized government would be top-heavy and autocratic, a large corporation would be capable of spreading its communal activities among its branches.

This has now come about sufficiently for us to recognize a new kind of citizenship: corporate citizenship. It is not the same as our traditional view of citizenship, which applied to one's residence in a specific town or section of the country and, in a formal sense, also to the individual's relation to his government. The pattern of loyalties, rights, and obligations entailed in this conception of citizenship cannot be shifted wholly into the employee vs. corporation relationship. For one thing, the member of a corporate community has no vote, no political parties, no inalienable rights. Thus, if we are to substitute corporate citizenship for the traditional role of political citizenship, it is important to understand the political activities of the class that is taking on corporate citizenship.

THE PASSING OF POLITICS

According to David Riesman, the middle class is coming to consist more and more of "political consumers." They tend to consume what is given to them in politics rather than help to produce the product. Their political participation is confined, by and large, to voting in the more publicized elections. It is true that the middle class of the burgeoning suburbs votes with great gusto in the big quadrennial elections: the percentage turn-outs in the belts around our great cities are almost British in their proportions. Yet the vote, it should not be necessary to say, is the barest minimum of political participation, and apart from the presidential contests—staged, staffed, and directed, it may be said, by people other than themselves—the middle class leaves itself out of political activity. They look upon politics as news to be consumed, a drama to be watched. They have none of the sense of political commitment which was second nature to the middle class of previous generations.

One of the reasons for this, as we have said, lies in the transiency of these people, as against the less mobile older middle class, which took part in partisan and governmental activity at the local level. Another reason is that the middle-class employee is in no position to be active in politics. He is dependent on his corporate employment; and independent political behavior, he is led to believe, might jeopardize his corporate career. "Many younger businessmen who would like to participate actively in the Democratic Party do not do so because they are afraid to," Governor Williams of Michigan has written in the *Harvard Business Review*. "In some areas the young man in a profession or in business is ostracized if he becomes or remains a Democrat."

It is understandable that politicians in the Democratic Party feel this more deeply than their Republican counterparts. Yet it is increasingly apparent that younger employees of corporations shy away from participating in either party. At first this avoidance may be based on the fear of jeopardizing their careers, but in time "being non-political" simply becomes an aspect of their personalities. In a recent article on businessmen in politics, *Time's* business editor concluded that "there is more talk than action." Unlike their colleagues in other countries, *Time* said, "U.S. businessmen, whether Democrats or Republicans, have a deep-seated aversion to political activity. Even in the last presidential campaign an upsurge in political interest on the part of businessmen generally took the form of discreet, behind-the-scenes aid. Few businessmen shrink from political action in cases that directly affect their industry, e.g., for higher tariffs on imported textiles. But most executives shrink from open support of political parties for fear of offending customers, stockholders or powerful public officials."

If the executive does not participate in party politics, it is obvious that the junior executive and the middle-management employee will stay even farther away from it. It will not do to say that a few hundred businessmen take administrative jobs in Washington from time to time, nor that a financial contribution to a party or working through a pressure group is an adequate substitute for personal participation. Full-fledged participation in a party is the essential ingredient in democratic politics. It would be wrong to say merely that the middle-class corporation employee is afraid to join in; it is rather that he has neither the interest nor the inclination to identify himself with politics. There has been an upsurge of middle-class activity in local affairs, it is true, and this is often called "political." But in actuality this work is "civic" in character, and the distinction is important.

THE SUBSTITUTION OF CIVIC VIRTUE

What distinguishes the civic from the political? The best answer is to be found in James Madison's *Federalist Paper* No. 10: "Those who hold and those who are without property have ever formed distinct interests in society. Those who are creditors, and those who are debtors, fall under a like discrimination. A landed interest, a manufacturing interest, a mercantile interest, a moneyed interest, with many lesser interests, grow up of necessity in civilized nations, and divide them into different classes, actuated by different sentiments and views."

This is not Marxist dogma on the part of the Father of our Constitution. Writing over half a century before Marx, Madison forsesaw the basic pattern which politics would take in American society. His main conception was that all citizens would be possessed of an interest: he listed property-owners, creditors, land-owners, manufacturers, and several others as examples. Madison was also concerned about the interest of those without property; but the propertyless, in reality, only become an interest when they organize a party whose aim is to socialize private property. While Madison and others of the Founding Fathers vaguely feared this eventuality, an organized, revolutionary proletariat has never come to fruition in this country. Those without property never developed the class-consciousness that Marx predicted they would, and without such a sense of collective identity it would be wrong to say that there is a propertyless interest.

Madison spoke of "lesser interests," and it is true that there can be, say, ethnic and religious as well as economic interests. But these are secondary and it would be a mistake to overemphasize the role they play. We tend to romanticize about the plurality of associational memberships among our population and are prone to consider them as more important than they are. A typical citizen, it is often suggested, has an interest in the promotion of good schools, Rotarianism, Episcopalianism, zoning regulations, uncensored movies, and so on and so forth. Every individual, we are told, by dint of his overlapping memberships becomes possessed of a bundle of interests. This simply is not so. An interest, if we are to judge it with any degree of seriousness, is a primary attachment. It is a personal stake in a particular set of social arrangements. The phrase "vested interest" usually connotes what we mean. And it was James Madison—not Karl Marx—who indicated that interests are generally of an economic character.

There have been times, of course, when non-economic interests played an important role in politics. The nationalist interest has always been strong in Ireland; religious interests have been important in India and Pakistan; in America the struggle for women's suffrage showed that equality of the sexes could be an interest; and the victory of Prohibition was the result of a strong moral interest. But today there are not many Americans who will participate actively in politics—and political participation is a good test of how deep the interest lies—in order to promote a non-economic interest. While no student of politics can forget the existence of lesser interests—especially when organized groups work for their promotion—it will only confuse matters if we assume that they have great meaning to individual citizens.

In the *Federalist Papers* Madison stated that politics based on the vested interests of various sections of the population would be inimical to the advancement of the general welfare. In his time those fears may have been real ones. However, it is now necessary to stand Madison on his head. The danger today is not that partial interests will obstruct the common good but that all too many Americans are without any substantial interest whatsoever. This is the political consequence of having a large class without property, for, in political terms, this makes them a class without an interest. Politics is meaningless in their lives because they have no interest to defend in the political arena. As a substitute they plunge into civic virtue.

Several weeks after lamenting that there was more talk than action in the political sphere, *Time* reported that "more and more executives are donating time and talent to civic projects from the Red Cross to slum clearance. Such giants as I.B.M., Chrysler, Ford, General Motors, American Telephone and Telegraph, National Cash Register all encourage employees to take on public tasks."

Middle-class participation in civic work is certainly strenuous. But the battle is against inertia and ignorance; it is not against opposed vested interests. It is aimed, for the most part, at getting people to contribute money to non-controversial causes. Such beneficent doings may be a compensatory substitute for politics, but they are not "political." The corporations which discourage political activity and encourage civic activity may or may not realize this. At all events it is clear that the middle-class employee of the corporation finds in civic virtue important psychological gratifications. "I've been observing these corporation executives in action for about thirty years," an independent businessman recently told a team of sociologists. "Two things about them have really impressed me. One is their frustrated desire to be free and independent—that is, to be able to make independent decisions and exercise personal powers. The other is the lengths to which they will go to conceal from their subordinates and the public at large their subservience to their masters up above, either locally or in the corporation's national headquarters. The fact is that these fellows nurse a tremendous desire to be big-shot capitalists. But they are not, and they know it. Some of them try to hide this fact by holding a tight rein on their subordinates, using this means to demonstrate their power. Others try to further the impression that they are big shots by being hyperactive in community affairs."

No one is suggesting that the interestless middle class is unaffected by the operations of political decisions. But they remain non-political simply because the ways in which politics operate on them are so generalized and so remote that they consider it all but impossible to interfere. When political participation seems futile, apathy is the consequence. The rising cost of living is a crucial political question to the salaried employee; the prospect of war, the threat of internal subversion, and the balance of power between the free and totalitarian worlds are also political questions; even the vexing and subtle question of one's rising or declining social status can be construed as a political question. But it is increasingly clear that the emerging middle class will not secure the deference it so longs for by working for one candidate rather than another or by ringing doorbells for a political party. The political wants of these people—a sound dollar, peace with honor, social position—are too vague to be treated as interests. Political participation, no matter how ingeniously it is assumed, cannot fill these wants. Hence we have political indifference and disillusionment.

THE DANGERS OF NON-PARTICIPATION

There are several dangers inherent in this renunciation of politics. *First,* if the emerging middle class is unable to fill the role in politics which has been traditionally assigned to it, we will be confronted with a vacuum in political leadership. This void will be most apparent, at the outset, at the state and local level. Certainly this has been the tragedy in the South. The moderate and law-abiding people of Little Rock and similar cities are members of the middle class, and an increasing number of them are corporation employees. Because they want to remain respectable and avoid controversy, because they have no real interest in the outcome of the conflict over segregation, because they are ill-suited to play any role of consequence in party politics they have been unable to exercise an influence for freedom and justice in a critical situation. The same may be said of the North in the area of civil liberties: the middle class, while tolerant in informal social relationships, has not been notable in defending the freedom of dissident groups and individuals. Such a defense would require political participation, and the middle class has forsaken such a commitment.

Second, the idea of corporate citizenship is non-democratic. The bounties are received from a paternalistic organization which is responsive to the needs of its employees but is not accountable for what it does or for the way it does it. The distinction between responsiveness and accountability should not be blurred. The so-called consultation practices within corporations are designed more to implement the responsive function than to make the decision-makers accountable. If the corporation is ever to be considered a "representative" institution, it will have to be clear who is representing whom by doing what. A zookeeper does not represent the seals because he responds to their need for fresh fish. A prison warden

does not represent the inmates because he consults them on recreational activities. Similarly, the corporation community is not internally democratic. The middle-class corporate employee must live with the hope and faith that he will be provided for, especially because he has no union. Faith in the beneficence of non-accountable rulers is a shaky foundation for citizenship. So far, the road of the corporate employee has been smooth; even in the recent recession, lay-offs have been primarily in the ranks of the production workers. But whether this is an expression of the obligations inherent in a corporate community cannot yet be answered; we do not know if corporate citizenship and corporate community are phenomena of prosperity or if they will remain despite economic fluctuations.

Third, impersonal corporate interests are replacing personal interests. The continuance of government is not dependent on the existence and participation of a propertied middle class. Government in America will carry on despite the weakening of political parties and the indifference of citizens. But while the Constitutional forms will remain the same, such a government may not be democratic in the traditional sense. For, as the participation of individual members of the middle class declines, the participation of the corporations for which these people work increases. As the corporation gives its middle-class employees a community to identify with and an immunity from politics, it itself is obtaining even more direct access to the higher reaches of the parties and the government. And corporate interests are real interests in the Madisonian sense. Corporations know what kind of legislation, what kind of political office-holder, and what kind of social environment help or hinder their operations. Today the spokesman of the corporation in the political arena is the ambassador from one government—in this case a private government—to another.

CORPORATE CITIZENSHIP AND DEMOCRATIC POLITICS

We have already expressed the doubt that the corporation is a representative institution in its internal workings. The same doubt arises in relation to its external political operations. There are serious questions to answer before we can affirm that a corporation's political activities—party contributions, legislative lobbying, public relations, and community relations—are methods of representing employees and stockholders. In what ways, for example, do the members of a corporate community benefit from the increased freedom which the corporation gains through its political participation? If we say that the corporation is representing its members—that the interests of corporate citizens become identical with those of their corporate community—it can only be in the sense of virtual representation. This idea was made popular by Disraeli in the nineteenth century and postulated that while large sections of the population would not participate in politics, their interests would be looked after by a benign ruling class. The corporation seems to be accepting this: it acts as it thinks best for its members' welfare, and its wisdom is accepted on faith.

By all outward appearances the emerging middle class is content with corporate citizenship and is not being bothered by the fact that political affairs are in the hands of others. Yet is this really the case? Certain studies of the new suburbia like that of a Toronto development by John R. Seeley and his colleagues show that the incidence of neurosis, the conflict in values, and the feeling of helplessness are endemic; a sense of isolation and powerlessness is having profound social and psychological effects on the members of the middle class. No one will claim that problems of mental health can be cured by political participation, but the democratic assumption has always been that self-government can create the conditions in which mental and moral health are most likely to flourish. The middle class, in divorcing itself from politics and in making itself dependent on the largesse of corporate institutions, has weakened itself immeasurably. If a crisis arises, even a relatively mild one, can we be sure that this group will continue to adhere to democratic values?

For how much of this can the corporation be held responsible? A wide variety of factors has been at work in American society in recent years—the decline in agriculture, the rise in population, the war and the cold war, the cutting off of immigration, the advances in education. In the final analysis, however, it is the development of characteristic institutions which most deeply affects human behavior in societies. At one time the institution might be the church, at another it might be the military; it might be the rising city or the opening frontier. In our time the characteristic institution is the corporation. The emerging middle class is a corporate creation. The corporation has

raised these people from a lower stratum and has endowed them with a middle-class self-image and middle-class expectations. The corporation has transformed the small town and has brought the suburb into being. It has ironed out sectional differences and made us into a nation. But national citizenship remains an unworkable concept because the individual requires a smaller group setting if he is to achieve a sense of community. Therefore the corporation, pragmatically and hesitantly, is devising its own substitutes: the corporate community and corporate citizenship. These have erased the need for political participation on the part of the very people who have always been the prime participants in the political process. The corporation has certainly not set out to weaken the foundations of democratic politics, but its growth as the characteristic institution of our time is having this consequence.

CITATIONS

A. A. Berle, Jr., "Economic Power and the Free Society" (The Fund for the Republic, 1957).

Russell Davenport, "The Greatest Opportunity on Earth," *Fortune*, October, 1949.

Erich Fromm, *The Sane Society* (Rinehart, 1955).

Cameron Hawley, *Executive Suite* (Houghton Mifflin, 1952).

John Keats, *The Crack in the Picture Window* (Houghton Mifflin, 1956).

Joseph Wood Krutch, "Whom Do We Picket Tonight?" *Harper's*, March, 1950.

Max Lerner, *America as a Civilization* (Simon and Schuster, 1957).

Russell Lynes, *A Surfeit of Honey* (Harper, 1957).

John P. Marquand, *Sincerely, Willis Wayde* (Little, Brown, 1955).

Herrymon Maurer, "Twenty Minutes to a Career," *Fortune*, March, 1956.

Elton Mayo, *The Social Problems of an Industrial Civilization* (Division of Research, Harvard Graduate School of Business Administration, 1945).

C. Wright Mills, *White Collar* (Oxford University Press, 1951).

R. A. Nisbet, *The Quest for Community* (Oxford University Press, 1953).

Roland J. Pellegrin and Charles H. Coates, "Absentee-Owned Corporations and Community Power Structure," *The American Sociological Review*, March, 1956.

David Riesman, *The Lonely Crowd* (Yale University Press, 1950).

John Seeley, et al, *Crestwood Heights* (Basic Books, 1955).

B. F. Skinner, *Walden Two* (Macmillan, 1948).

C. P. Snow, *The Conscience of the Rich* (Scribner, 1958).

A. C. Spectorsky, *The Exurbanites* (Lippincott, 1955).

Time, "Businessmen in Politics," August 27, 1956.
"Civic-Minded Executives," September 24, 1956.

William S. White, "'Consensus American'—A Portrait," *The New York Times Magazine*, November 25, 1956.

William H. Whyte, Jr., *The Organization Man* (Simon and Schuster, 1956).

G. Mennen Williams, "Can Businessmen Be Democrats?" *The Harvard Business Review*, March-April, 1958.

Sloan Wilson, *The Man in the Gray Flannel Suit* (Simon and Schuster, 1955).

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Lecture XIV. Theory of Dogmatics. (Sketch of perhaps half.

14.1 Scope-note

Dogmatics is, roughly, the art of getting an authoritative answer on what to do in a case of doubt when the answer is procured from or by use of fixed authoritative materials. Dogmatics takes on its distinctive attributes as the materials take on bulk and tend into supposed completeness, and as the solutions reached become added as guides for the future. Thus consultation of an oracle whose decisions are not drawn into precedent is almost completely non-dogmatic; and such divination as rests on augury shares with dogmatics chiefly the known authoritative procedures, the problem of skilled and upright personnel and the authoritative answer. (Conceivably, also, precedent in interpretation based on experience; but the handling of verbal texts is different in kind.)

Dogmatic systems are thus typically religious and legal (the legal extending of course to cover any comparabl variety of the by-legal) and very frequently the two coincide--if only because a priesthood devotes special time and attention to the preservation of authoritative materials. Thus any organization with fixed authoritative materials (e.g. a constitution, by-laws, and interpretations) is in the picture, as is any authoritative body which rules in terms of principle: even the French Académie re spelling and the "admissibility" of words.

14.2 The simple and unsophisticated but long-persisting pattern begins with

14.2.1 A fixed body of (a) authoritative materials and, typically, (b) of recognized authoritative methods for dealing with those materials. The materials are, typically, made up in part of fixed texts and in part of known action under recorded interpretations. All of this can operate without writing, but the possibilities widen with writing. Almost always the authoritative contains, in addition to the verbalized, considerable chunks of the less verbalized practices which shape and limit thought; felt responsibilities or other attitudes which direct, urge, limit, compel; ideals, hero-images, etc.

14.2.2 There is also the assumption, generally tacit, that

(a) there is but a single possible right answer within the area covered by the dogmatic system.

(b) that answer lies in and is dictated by the authoritative materials

(c) if they are properly read or used. "Properly" may go to method, sometimes also to personnel, or, at need, to personnel rather than method.

14.2.3. Less frequent is the assumption that the authoritative scheme is utterly complete.

14.2.4. Almost universal is the feeling that fresh re-examination of the recognized materials and especially of the recognized methods would imperil the polity by shaking faith.

(a) Faith by "the public"--the laity is commonly conceived to rest upon an almost mystic appreciation of the fundamental materials and methods which transcends errors of detail or blobs or dereliction of personnel or both.

(b) Faith by the personnel is felt to be a requisite to keeping their hearts and actions free of the dangers of self-will in any of its forms.

14.3. Problems of operation force upon any lasting dogmatic system an almost-impossibility of maintaining a clear or unambiguous set of results.

14.3.1. There are the limitations of even prophetic foresight.

14.3.2. - - -

14.3.4. There is the straining of life and its needs to burst out of the dogmatic scheme

(a) even initially, often enough: something's being badly covered

(b) certainly as circumstances change

(c) especially if the change be great and abrupt (outrunning easy techniques of adjustment).

14.3.5. Despite all conditioning and tolerances, there is over the long haul a potent lay demand for results that satisfy. Though

(a) much trouble in detail can be absorbed and

(b) much can be thrust into blame of personnel, ("the lawyers") leaving faith in the System ("the law") and

(c) much trouble can be explained away (the scapegoat technique; in less sophisticated societies, visitation of supernatural wrath for sins) and

(d) organized power can to a very material degree deal with the rebel, the mutterer, and the other-than-overly enthusiastic.

14.4 Certain Major Devices for Adjustment.

14.4.1. The overt area of leeway:

(a) to the individual or group (liberty)
Right conduct within liberty must fit the tone and not purpose of the dogmatic scheme.

(b) to the official (discretion)
Right exercise of discretion must be upright in motive, and must move in conscious or unconscious quest for action which would be sound to repeat in circumstance of similar type.

(c) to the case (fresh decision)
Right fresh decision fits the description of right exercise of discretion.

14.4.2. Examples of an overt area of leeway are the distinction in theological between essential

doctrine and conduct and non-essential matters; recognition of gaps in any scheme of legal concepts and rules and principles; any central authority's sane leaving of local government, local policy, local operations to the field officers; "liberty" of contract or of organization or of enterprise.

14.4.3. Along with the overt area of leeway or ambiguity goes a <u>covert</u> set of leeways, no less real for being harder to see.

/Unfinished/

JURISPRUDENCE SYLLABUS 1952

LECTURES 15-16 (Draft) AMERICAN APPELLATE DECISION

15-16.1. The double duty, inherent in the office,

15-16.1.1. To "the law": a duty explicit

(a) To work under, with and within the accepted authoritative materials of the place and time,

(b) In ways, by techniques and inside the leeways accepted as correct for the place and time,

(c) "Diligently, uprightly, and resolutely."

15-16.1.2. To "Justice": a duty implicit, but known to as well as felt by both the public and the judges, and felt also by the bulk of the bar in general and most of the time, though frequently not in the particular case --

(a) To bring out, if legal means avail so to do, a result decent for the parties and wise for All-of-us,

(b) But in terms of the judge's individual judgment only as screened through and modified by his office of thinking and feeling for All-of-us,

(c) "Diligently, uprightly, resolutely."

15-16.1.3. A Case-Law system steps the pressure up

(a) This double duty rests on every judge, everywhere, even in an individual case,

(b) Nor can any sustained course of judicial work ever escape creation and responsibility therefor,

(c) In a case-law system the matter becomes both obvious and greatly intensified because the judges' law-shaping function and precedent-making effect stand partly open to view.

(d) Any "separation of powers" regime we have begun in partnership with a case-law system.

15-16.2 The case of doubt, the problem case on "the law:" The American appellate court's typical province.

15-16.2.1. Clear situations either

(a) lead to no trouble: people do "what is done" or what is to be done; or

(b) show their answer on their face and read only to be appropriately brought to a court's attention; or

(c) need only to have "the facts" officially settled.

15-15.2.2. "True appeal" -- either de novo trial, or independent reexamination of the written record of evidence, or any combination such as the taking of some new evidence-- is not within the scope of this lecture. Some discussion in Bramble Bush, pp. . Such appeal should be considered rather in the context of trial judging, which is a significantly different art with a number of significantly different problems.

15-16.2.3. "Strict limitation of the appeal to questions of law" can be implemented by machinery strange to us, which can somewhat narrow and alter the range of operations and can somewhat effect the processes and factorsof deciding. E.G. the facts can be stated exclusively by a member of the court assigned to that end, and the tradition may be for him to bend every effort toward producing a colorless statement; and the advocates may be forbidden to mention anything but points of law. The court may even be presented only with a certified question of law unaccompanied by any of the more concrete facts in litigation.

Such matters alter the ingredients and character of the judging in roughly the manner and degree that a sharp change in period-style can and does. But they no more destroy the essence of what is here set forth than the official denial of precedent-value to decisions avoids the precedent-effects which inhere in remembered decisions.

15-16.2.4. Many clear cases are in fact appealed today in our courts. Cardozo when on the Court of Appeals (1921): "more than half" could be decided "only one way with any show of reason." This is largely due to lawyers' misunderstanding or incompetence: see below. But even a clear case can be lost by bad enough bumbling, and sometimes a seemingly hopeless case can be won by accident or genius. Again: such aberrations must be taken into account and guarded against. Again, they do not affect the broad lines of the general picture. "What happens sometimes" must be watched for; it may turn up this time and be devastating. But the tradewinds remain the tradewinds even though the wind in the trade wind channel may sometimes die or blow the other way.

15-16.3. American appellate judges and benches differ largely and significantly; yet have significant oneness.

15-16.3.1. Judges, being people, differ:

(a) In brains, persuasiveness, judgment, vision, experience, in or outside the law, tolerance, conviction political and religious, diligence, patience and self-restraint, etc., etc. There was, e.g., a time on the Supreme Court of N.C. when three of the judges had patently while at the bar grown into "plaintiff's lawyer" thinking and feeling and seeing and three into "insurance lawyer" approach to life, and the seventh man did almost all of the deciding in one large class of cases. Such diversity of judges' background is as it should be; it is what a bench of judges is for; though one hopes to see a dose of "office" materially temper prior experience; (a real evil lies in the absence of machinery to somewhat iron out the divergences among judges sitting singly: we do not there have even a bench-tradition to break in the recruit.)

(b) Particularly, for our purposes, courts and judges differ in their position on one hypothetical "scale" of attitude toward life and legal work, a scale between two such poles as these:

(i) The man (group) who loves creativeness, who cheerfully combines tough-mindedness with risk-taking and responsibility, who sees and feels institutions as always answerable to vital function and case-law as a tool whose function is justice and general welfare; the pioneer and builder;

(ii) The man (group) who loves order, whose tender mind finds risk irksome, who has seen too much hasty and unwise innovation, who sees and feels institutions as the tested ways which are man's sole safeguard against relapse into barbarism and sees policy as essentially committed to the legislature: the consolidation and maintenance man.

15-16.3.2. Benches also differ sharply, apart from the differences in personnel:

(a) In their established ways of work. Wiener, Appellate Advocacy, has collected useful material. Some courts see the briefs rarely

or never before oral argument; some make effort to always see them first; in some courts the chief at least does, in some it is an assigned judge at least; and that assignment may be by rotation or by request or by the chief's discretion. The time and manner of consultation differ.

(b) In their current manner of approach. On this, period-style is discussed below. Other striking and important phases are such as these: Is dissent (in vote or opinion or both) common or frowned on? Is the practice one of simply acquiescing in an opinion-writer's draft (even of not treating it as the opinion "of the court") or of editing it carefully or even of building special syllabus-phrasings which "are the law"? Does the court act as a whole, or in sections, or in three's out of five, six, or nine? If its jurisdiction is in part discretionary, how does it handle that discretion? Does it screen cases for careful opinions as contrasted with shorts or memoranda-- and are criteria observable for the screening? Is the particular bench by term or tradition a "life" bench? a rotating bench? a bench by law or traditionally divided between major parties? or among particular districts? What kind of bar presents the cases and sets the tone of admiration, expectation, criticism?

15-16.3.3. For all this, modern American appellate judges and courts as contrasted with American laymen, or American lawyers, or American trial judges, are amazingly and most significantly alike; or as contrasted with French or German or English lawyers, judges or benches; or as contrasted with American appellate judges and courts of 1880-1910.

(a) Modern: Mixed style well on the way back into Grand Style: N.Y. Court of Appeals 1926, 1939, 1952. Mass. 1939, 1952. Pa. 1945. Ohio 1940. N.C., Wash., 1939, Oregon 1950. Contrast Md? Ill. Sup.?

(b) American: People who think case-law, the digest system, 49 jurisdictions, limited effect of statutes, written Constitution, two parties, the American way, etc.,etc. Compare the French courts first junking Portalis, later handling industrial and automobile accidents under a pre-industrial Code (Déak) or handling the right of reliance (Mason) or c.i.f. (Thayer) in contrast to e.g. Colin & Capitant, [illegible] & Goodhart on French precedent; Gény without official honor, say 1920-1935. England: the tight time, 1900-1940, with its persistences, v. the inroads of remedy and Wright (Stone). Effects of style: Scrutton "I do not feel in myself the strength...." Fifoot on Mansfield's use of precedent. Germany:

the tightest (?) time 1901 ff. with the "free law" controversy by 1907ff. and material loosening in the inflation period, with slow spread of rationalization of "method" (Heck) till Hitler (the "spirit" not informing but displacing the letter.)

Contrast also the English "single system" set of precedents (despite modern reporting) and in the High Court (contrast county courts) the skilled and relatively even bar and the highly trained bench, with Parliamentary remedy capable of quick and powerful initiative from a major cabinet member who is also the head of the judicial system (contrast N.Y.'s tiny Law Revision Commission), plus the relatively high legal articulateness of the English opinion and the relative obtuseness of the English bench to lower-level plain human horse-sense (as compared with the high level empire-preserving horsesense of the Privy Council.)

As against almost any major Western country, consider the unevenness of our judges' training and the shortness in most of our courts of the judges' guaranteed tenure.

As against the Continent, consider the effects of the signed opinion and of the publishable dissent.

(c) Appellate: The man modified at every turn by the bench; the facts (save for documents) at second hand; the responsible making of precedent thrusting constantly for conscious attention; the published opinion as a standard practice.

(d) Judges: Not bricklayers, schoolteachers or business executives, but legally conditioned persons, trained to sit in judgment, trained and trying to think, see and even feel in terms of the relevant accepted legal proprieties; a world divided by Nature into Contract and Tort, Contract and Status, Contract and Property, Contract and Government, Contract and the Unenforceable--etc. Into the Admissible and the Abhorrent. Into people who are always adversaries but operate by way of counsel not only opening holes in the line and running interference but also vicariously carrying the ball. Into groupings of 5 to 500,000 peopl who are A and B just like Arthur Archer, the architect, of 80 Acorn St., Akron, and Ben Beecher, the beefy butcher halfway down the block. Judges: men sheltered much more than most, from criticism of their daily work -- lawyers don't want to offend them. But if criticized, then criticized in passionate ignorance by people who do not understand a judge's problem, and precisely for the things he has done best.

(e) Courts: Not individual judges; case-law courts; courts with signed opinions, published dissents; with a peculia position of public respect: a priesthood status which put

on them a burden of in a way making up for the general disrespect in which the bar is held (interesting isn't it?); courts with the clearest tradition (though almost unreduced to words) of right conduct in office among any group of our public officers except the armed services and perhaps the better police.

15-16.4. Our actual system of precedent is almost unexplored.

15-16.4.1. The manner of writing opinions (in more or less deductive form; with the authorities relied on, in the main, simply adduced in conjunction with the propositions which are based on them; and with the answer arrived at typically presented as compelling and exclusive) obscures the actual use made by the court of the authorities.

15-16.4.2. The general manner of reading opinions does the same. We read rarely for method, mostly for result: to note the latest re "the law of the point." We rarely, in reading, check the use made of authorities against those authorities themselves. We almost never observe the "legally" cogent presentation of authorities which has commonly been made by losing counsel.

15-16.4.3. Discussions of our system of precedent have been almost regularly either misleading or partial and inconclusive.

(a) Discussions in terms of the court's own explicit doctrine sin against the fundamental case law principle that, (i) in all cases of trouble, saying must be checked against doing, and that, (ii) in all cases of divergence between saying and doing, persistent doing prevails over the most strident and stentorian vociferation.

(b) Such discussions sin also in unwise selection of evidence. Conscious thought about a problem commonly concentrates on particular tough spots. The tough spots in handling prior cases are the counter-current spots, the spots where the authorities run in troublesome directions, where hard thinking is required to make needed headway against their seeming flow and thrust. Conscious doctrine of court and scholar has in the main played this phase up and has played all other phases down.

(c) Less frequent in studies of our precedent system, but also sometimes articulate (English courts, 1900-1940; Beale; the less "scholarly" American texts) is the approach to precedent by way of the rule or theory expressly laid down by the court as its basis of decision, a distinction being indulged in -- in the main -- only where the courts have already taken that distinction.

(d) Few writers indeed have put these two lines together side by side without adding some accompanying distortion. Wambaugh, otherwise majestic, proceeds as if the "applying" court had no choice, but just each time dug out the true kernel lying in the precedent. Cardozo in 1932, quoting Llewellyn on what "we all know" agreed that the range which a precedent has, from its narrowest "strict" holding to the widest formulation its principles will allow, is a range "at the will of the judges." The range of multiguity is recognized; the manner of its use is muffed, complete. The image-breakers, on the other hand, have tended strongly (studying the actual authorities first in particular cases whose results they have not approved) to see an uncompelled result rationalized by manipulation of authorities, and have then turned in the main toward personal motivation as explaining the results, with economic background, prejudice etc., stressed; or, more recently, judges' individual views of policy or individual reaction to fireside equities. In the main such work has been thrown off-base by over-attention to key policy-determining cases in the U.S. Supreme Court, where factors of policy, statesmanship, responsible allocation of powers under a federal system and the like have long had almost institutional standing, largely veiling from the "hard-eyed" observer the companion tradition of continuity and discipline in movement. T. R. Powell, aware of this last, then allowed his eye to be deflected when the "new court" started to rebuild the lines of continuity.

15-16.4.4. A sound approach calls for intensive study of the mine-run of work, the daily grist in toto, in the work of the most respected state courts of review.

(a) The actual going doctrine of precedent is that found at work in the practice of the best courts. This calls for mine-run study.

(b) The best doctrine is that which reflects the best practice of the best courts. This calls for selection, but selection in terms of method rather than of social importance or human interest of the substance or the case.

(c) Criteria of such selection of the best are provided moderately well by horse-sense and history. What was the method in past work which has stood up particularly well? Has that method (or those methods) given a materially higher rate of return of satisfaction than other methods? Can characteristics of prospective satisfaction be determined and useably described -- or characteristics of particularly sound method? How much depends on variant conditions of one sort or another? Etc.

(d) While (b) and (c), above, are where one wants to head up, (a) must be our first inquiry: What <u>have</u> we?

Part III - Readings

The Tragedy of Modern Jurisprudence

By A. Meyendorff

[This paper, from Interpretations of Modern Legal Philosophies, ed. Sayre (1947) pp. 521-541, contains the best presentation in English of Petrazhitski's thinking. Timasheff gives another presentation in the same volume, pp. 736-750. --Meyendorff's paper is obscured by English sometimes bad, sometimes weird, and occasionally unintelligible, plus some unhappy proof-reading. I have revised the phrasing where needed, whenever the sense can be made out, and have provided some running commentary in footnotes. --K.N.L.]

Right and Justice

INTRODUCTION

We are not in a position to ask the question, What is Right and Justice? The question is a perennial one, almost eternal. One thing only is certain, namely, that the minds of men rarely (although I should like to say always) are moved by the desire that what seems just should be done. Surely what seems to me just may seem to others unjust. Men agree or dissent about seems to them just. No one is going to deny that such is, for good or evil, the fate of Man. There are, however, those who think that by the means of religion or philosophy it is possible to overcome, or to 'transcend' the disagreement imposed on men by nature or by fate. The ancients, for instance Virgil (Aen. X. 36), thought that Jupiter himself was subject to Fate. But among the minor deities, there was such dissatisfaction with what they thought to be Fate, that some were following Juno, while the others were following Venus in the inventions of machinations, as contradictory as they appear foolish, to defeat Fate. Thus, sometimes Juno, sometimes Venus, would try to invent some 'secret weapon.' Has one not the impression that the civil war among the inhabitants of the Olympus against Fate was itself dictated by Fate? Jupiter the Thunderer was powerless to avert the predicament of Fate from Olympus, or from the affairs of Man. What wonder that men, every one for himself, and every house, family, tribe, association, nation, as well as other groupings, are hoping and are taught to believe firmly in the possibility of conciliating Fate, Fate that is unknown to them? Who can explain how Fate can be conciliated by causes contrary to itself? Nevertheless, there are people, and there always were, who flatter themselves enough to enunciate many useful things about such matters, by arguing about the mysteries of religion, or about human reason, or about the nature of all things. Among the thinkers, however, agreement and disagreement reappear again and again. True, in science agreement is more likely to be attained than in Philosophy, since science strives for things that can be known, and does not think itself competent on matters that are not knowable.

But is there not a fundamental disagreement about what is knowable and what is not? Certainly. One point only can be advanced with certainty, namely, that human beings are in agreement and disagreement. Furthermore, one may add that all dissension, however fierce, has one [a] end in view, either to subdue the opponent or to obtain his consent by persuasion or by force. What an amount of mental and physical effort is spent by members of the same family of various ages, and between equals and unequals with different habits and at all times most lavishly devoted to the task of obtaining concord, assent from the wise as well as the unwise! One may well ask whence such a massive urge for propagating one's faith originates. We call it a burden (moles), since rarely in that urge are the fruits sweet ones, and frequently later generations consider the agreement achieved an error. There are many who think of human beings as of animals, and surely there is a good deal in common between men and animals. Yet here the question arises about the urge which for the sake of brevity we have called the desire for propagating one's faith. It can also be described as a sort of concordia that there should be no disagreement as regards duties and rights, as regards good and evil among those whom we call 'our people.' [b] Our people, on the other hand, in the course of time may comprise the whole human race, and if not exactly the whole human race, at the present epoch at any rate, our people comprise not only the contemporaries belonging to one and the same nation, but the whole nation of today and its descendants for ever and ever. It is believed that nations are immortal or that they become immortal through constancy in beliefs, a constancy in opinion about rights and duties, about right and wrong. About the institutions of the family, marriage, education, the army, the churches, such an 'integration' as it is called, is desired, and what we have said above about the inevitable disagreement and conflicts of opinion -- this very fact is not called disintegration, but 'differentiation.' In such a manner sociological philosophy, the doctrine of evolution, will have it that in all things human society progresses; and dissension, I might say as well discord, is being blessed as a necessity.

Our much respected Dean Pound has sufficiently and clearly in his time expounded twelve definitions of law or right. About the nature of law he himself admits one thing, namely, that it is on the move, always; it is not a res immobilis. Now, if it moves, the question presents itself, whether it can be moved by man towards a good end. What is a good end, also what is utility for the many, or, if you prefer, for all men, is by no means knowable to men. 'I am skeptical as to the possibility of an absolute judgment'; and Pound continues: 'We are here confronted at this point by a fundamental question of social and political philosophy.' Nevertheless, at all times among the sources of ethical doctrines -- of which morals and law are parts -- opinions

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[a] One!

[b] The We-Group, the Us.

on the supreme good have at times been of great importance, and what the descendants of those who were giving their lives for such opinions may then teach without any risk c/ is that those convictions are frequently born of wishes, either of the wishes of an individual or of many people, reduced to some formula. And in similar fashion at the present time most learned men think that the ideas on law and morals have followed the pattern that it is in the interest of those in power to have observed by their subjects or followers, as in the armies the rules of discipline.

However, there have also been learned men to whom such an explanation seemed quite worthless. Among such was the Russian thinker of distinction, Boris Tchitcherin, the author of a memorable work, A History of Political Doctrines, on the history of political doctrines from ancient times to our era. In this book, in a most subtle way, he supplemented the Hegelian formula of three steps or moments (thesis, antithesis, synthesis) not without good reasons by introduction of a fourth. At first, man affirms and argues about what it is. With regard to this, there comes to his mind the possibility of a formal or a substantial improvement. No one is in doubt, for example, that the debtor ought to pay his creditor. But there immediately arises the problem, from necessity, about the process of litigation, and here again, following this 'formal' problem, a 'material' one presents itself, namely, the problem of the limitation d/ of the creditor's right: whether the debtor alone or his kin and heirs should be responsible with their property or also be subjected in person to the creditor. Finally, in what Tchitcherin, following Hegel, calls the synthesis, the whole institution of creditor and debtor comes to be legally embraced as a whole, while in the course of time the same problems arise again and again of necessity, requiring new legal arrangements along the four steps of the dialectical progress. Who will deny that in the dialectical sequence there is something that strikes us as necessary and natural? e/ No wonder that Karl Marx did not reject the Hegelian formula, which the Tchitcherin formula approximates, but used it inversely, as he remarks himself. It seems to us that Dean Pound expresses no absolute disagreement but simply refrains, as is his manner from discussing the road by which men in society proceed, although he enumerates the stations on the road from family unit and the city states of ancient Greece down to great nations of our times, and shows that at every stage there are found the respective thoughts about law and particular laws. At present, the nations comprise unheard-of numbers of citizens; consequently, it is dangerous to undermine the foundations of which law and morals form a part, since peace has to be preserved.

c/ Intellectual, not political risk, I think.

d/ "Extent"? "Nature"?

e/ Note the unwarranted leap from an observed sometimes or frequency or even more-frequently-than-not to an unchallenged universal. This happens too often among other good men, too.

This, f however, if at all attempted, can be done only by such a science of law as traces the existence of law everywhere, in the minds of every kind of people -- in the minds of infants, no less than in those of their elders, among the uneducated as well as their teachers, among barbarians as well as among civilized people. Is it not clear that the science of law thus understood will question every bit of what has been ever taught about law by the jurist? The precepts of law are these: to live honestly, not to harm another, and to give to everyone his due. Thus professed Gaius, and Justinian after him. Now the agreement about these things -- about not harming one's neighbor and about giving him his due -- is the characteristic of a community, or society; but the borderline of a community is quite often narrower than the precinct of our room. We need not say a word about Fascist and Communist; their concept of honest living may be regarded by outsiders as criminal. Hamlet assumed not only the right but the powers of a judge, and considered himself contemptible before he had acted accordingly. Or, to put it in another way, he was in doubt whether he should regard his father's command as the supreme law, and perhaps also whether the judicial powers were inoperative as regards a king's son. This case, however, is not as relevant to our argument as the conversation in Uncle Tom's Cabin about fugitive slaves. That was about the Senator's vote in favor of penalties for the harborers and abettors of fugitive slaves, and his unwillingness to apply the same standards in dealing with a fugitive mother and her child. He was unable to accept what Socrates bore witness to by his death, that law is the supreme guardian of the state. He recognized another law as being above the law of the state, the law he called the Christian law. Do we not have here the instance of a crisis in law and morals, in the mind of the Senator of Kentucky who appears as a transgressor of a law which a few days before he eagerly helped to pass? What he himself had ordered, he now violated.

'What a situation,' writes Mrs. Beecher Stowe, 'now for a patriotic senator, that had been all the week before spurring up the legislature of his native state to pass more stringent resolutions against escaping fugitives, their harborers and abettors.'

Such an internal disharmony, not at all rare, proves that the proclaimed law and the law in men's minds are different things. Miserable is the state or any other form of human community in which what is called law or custom is gradually or suddenly found lacking in foundation in the minds of those concerned. What can be said for a science of law which believes that all law is to be found in statutes, custom, and judicature? g Who is

f Preserving peace, even while examining foundations.

g I think this means: claim that even a judicature which deals with custom and the cases as well as statutes has surmounted its difficulties. . ." In any event, the "Nevertheless" which follows should read "In any event."

going to claim that even such a jurisprudence is arduous enough considering the variety and multiplicity of law? Nevertheless, such a jurisprudence does not deserve the name of science of law. Dean Pound seems not to disagree, since he traces in the findings of the judges the elements of morals.

Here now we should like to attempt to develop Pound's observation, which we think can best be done by giving a verbatim account of L. Petrasycki's theory of law, in particular of what the late professor at St. Petersburg University, later at Warsaw, has written about <u>intuitive law</u>.

I

> If there is one thing clear, it is that such creatures as ourselves . . . can never think without some kind of at least suppressed emotion.

Don't steal! Be kind to everyone! Parents must take care of their children! And such like pronouncements may, when emotionally felt, represent a <u>unilateral</u>, <u>moral</u> obligation, or they may represent a legal or juridical obligation towards a definite claimant. In the latter case, the collateral emotion is not only the feeling of a negative command to abstain from the objectionable act, but simultaneously involves the recognition of someone's right, usually that of the person harmed, to seek redress. The emotion for this reason is called by Petrazycki <u>imperative-attributive</u>.

It follows that any emotion felt as a command can, in no time, whatever the contents -- the intellectual element -- from a purely one-sided, moral command imposing an absolute abstention or compliance with the pronouncement of our inner voice quite apart from any claim, reproach, or immediate or predictable harm -- every such moral emotion can in no time take the 'dual' or 'bilateral' aspect of a legal emotion.

According to this observation, which can be tested by anyone, the characteristic correlation of duty and right explains why a generalization regarding law draws into its field the inexhaustible realm of human emotions (impulses, or some would prefer other terms related to man's motivation). It is certain that the background of psychology is the soil on which all law comes into existence, and whenever the positive-law regulation or convention imposing duties and rights gets out of touch with the 'inner voice' of those concerned, there arises a conflict, a crisis, which in the political and social field can mean a revolution. Dean Pound has touched upon the collision between the ideal and legal factors, without in any way committing himself as regards the psychological theory of law we are attempting to explain here. Yet a few brief quotations will suffice to show that his field of observation is, in the main, psychological without ceasing to be essentially connected with the problem of

the nature of law. Here are a few passages which, with a different terminology, might have been written by Petrazycki.[h] 'They assume [Mr. Justice Wilson, Jefferson, and others], indeed, a standard conscience -- as it were a conscientious man's conscience, analogous to the prudence of the reasonable man in our law of torts.' Having rejected an absolute theory of morals, the individual 'moral' conscience or 'sensitiveness' appears inevitably as an important aspect of positive law in its application, origin, and growth, as well as decline. 'For example, the "right of revolution" . . . a principle,' says Mr. Justice Wilson, 'which should be taught as a principle of the constitution of the United States and of every state in the Union' can be admitted as something, continues Dean Pound, 'to be left to the conscience of every individual for the occasion and the manner of exercise only when all men or most men are agreed.' During some epochs there has been a general agreement upon 'ethical custom.' It could be assumed that every individual in a homogeneous community with a relatively simple economic organization felt as did his fellows with respect to things that are not done. This does not mean that the individual feeling is the ultimate arbiter of political and legal obligations. In regard to rights, it certainly means, if it means anything at all, that the aggregate of feeling proper to the psychology of individuals, with its inherent tendencies towards expression, expansion, 'positivation,' and uniformity of which public opinion is a manifestation, can and does either support or undo or modify the legal system, whose stability therefore resides not always in the purity of its principles and the logical consistency of the system, but in adaptability and compromise at the 'psychological moment.'

It cannot be denied that at the present time the law of property enjoys no more the support of common assent; and for all who regard it as the stronghold or condition of liberty and progress, no greater danger to the future advance can be imagined, whereas a diametrically opposite view is taken by an ever-growing section. War conditions have now created a wide field of experimenting with measures of control and nationalization, in the wake of Communism, Fascism, etc., following upon Statism.

The matter is again summed up in the short sentence of Pound: 'Law cannot depart far from ethical custom or lag far behind it.'

The following discussion will perhaps press the problem somewhat more closely.

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[h] The quotes here need unscrambling, but it isn't hard to do.

II

But before attempting a summary of Petrazycki's chapter on Intuitive Law, I think the following passage in that same chapter represents in substance the contents of Dean Pound's detailed observations on the 'individualization' in the application of law, which, apart from other remarks (passim), lead to the conclusion that:

> Sound thinking requires us to perceive that moral propositions do not become authoritatively established legal precepts. . . many heterogeneous elements enter into the discovering and making and shaping and applying of legal precepts. . . For the most part, the legal systems of today represent juristic and judicial search for a rule that will follow logically from the traditional legal materials, or for a rule that may have authority behind it. . . [Ibid.] Yet... in weighing or evaluating interests, whether in legislation or judicial decision or juristic writing, whether we do it by lawmaking or in the application of law, we must turn to ethics for principles.

And here Dean Pound quotes Korkunov. . . .

Dean Pound furthermore distinguishes between the various successive periods in the history of law as to the degree of infusion of 'ethical' principles. These latter are in his view not absolute but, as mentioned already, a subjective valuation, at the time and place shared by the great number (ethical custom). Yet 'contact' between law and morals in a lesser or greater degree is inescapable, and therefore the relation of jurisprudence to 'ethics' is similar to its relation to economics, politics, and sociology; and for the understanding of the legal phenomena, one has 'to make continual deep incursions from each into each.'

The incursion, to use Dean Pound's expression, into psychology has been characteristic of the closing decades of the nineteenth century -- which Dean Pound among others does not revere incident to ↓ its inventiveness or creativeness. Such incursions even in the field of art and literature have widened the understanding of man, yet, in connection with the industrial-capitalistic-progress have, as some think, caused this so-called 'dehumanization,' produced 'technicalized' forms of living, at best a 'mechanical contentment'. As some see it, hand in hand with this catastrophic change the art or science of psychology has, as it were, been sold to the devices of manufacturing fashions, tastes, moral valuations among the powerful mass-democracy, which had helped to 'sanctify' the criminal era of tyrannies.

↓ I think this means: "in the measure of."

We shall see that the belief in a beneficial effect of the infusion of what Dean Pound calls morals into law is less pronounced in Petrazycki, who in 1907 already visualized the dangers of an inferior quality of morals, which in his classification covers the idea of intuitive law, contrasted together with intuitive morals on the one hand, and with positive law and positive morals on the other, forming the realm of ethics. In the latter general term, his terminology coincides with Bain's; at least positive morals and positive law would be components of ethics.

III

Now we are coming to the passage which seems to reflect the conclusions of Dean Pound, in both his Introduction to the Philosophy of Law and his Law and Morals.

> But also in the case of positive law with its formal deciding authority, intuitive law is by no means without actual importance. It exercises its pressure upon the interpretation and application of positive law in the direction of arriving at conclusions in consonance with the direction of the intuitive legal conscience, or at any rate in least discordance with them. . . likewise intuitive law influences the scientific students of positive law and therefore their interpretation of the admission or non-admission of analogy, the tendency of generalizations drawn from the texts and of specific propositions deduced from the general principles, by which in its turn, judicial action is influenced. Such an influence of intuitive law . . . to some degree prevents or mitigates conflicts between positive and intuitive law.

In all fairness it must be said that similar observations can be found in most textbooks on jurisprudence, or the science of law, as well as in the treatment of the history of law. The late Sir Maurice Amos, who was rather in favor of contrasting law and morals, speaks of 'certain methods of unconscious legislation, through which a change is involuntarily made in the substance of the law while a genuine attempt is being made only to ascertain and apply it, which operate in other ways than through interpretation, properly so called.' Furthermore, his remarks on equity as a means of moral adjustment have also some bearing on the subject here treated.

We reserve for another occasion the delicate distinction between the moral and legal emotion, the former unilateral -- the feeling of a duty -- the latter bilateral -- a feeling of duty correlated with the attribution of rights. When we add 'to somebody,' we do not imply that the somebody must be necessarily a human being. [j] It suffices to remember the various religious loyalties, primitive and advanced, to recognize their frequent

[j] Thus in ancient Greek law gods appeared as legal persons; one major form of slave-emancipation, e. g., was by sale of the slave to an appropriate god.

analogy to legal relationships; positive when formulated authoritatively, intuitive when alive in the consciousness of the believers. In the following notes there is but a fragment of Petrazycki's theory of morals and law: the difference between intuitive and positive law, which will put into relief the essential characteristics of the latter, some of which will tempt the reader to identify intuitive law with morals. This Petrazycki thought methodologically wrong, though he recognized the importance of the doubt and that the limitation of law to positive law is possible, though such limitation does not in his view produce a scientific departmentalization.

On Everlasting Values of the Spanish School of Natural Law (F. de Vitoria)

by Alfredo Mendizabal

(Interpretations of Modern Legal Philosophies, ed. Sayre, p.498)

Political history is above all history of political ideas, without which institutions would lack a basis. And in turn, each political construction is based on a conception of man and of society. As Mazzini said to the Italians: 'Ideas rule the world and its events. A revolution is the passage of an Idea from theory to practice. Whatever men say, material interests never have caused, and never will cause, a revolution.'

There are permanent problems, which are basic; and temporary problems of historical nature. But there is also, above and below the specific problems of peoples and periods, a common human nature, which gives continuity to fundamental themes and makes us understand humanity as such. At present, two world concepts are at war, and actually, it is a matter of moral conflict. Either the Machiavellian state, having at its head ' a man who, without being dependent on anyone, can decide, and without any appeal, may execute his decisions,' or a State of Law, dependent not only upon the laws, but also upon principles of natural Justice which should control those laws: either the raison d'Etat as an excuse for all violations of juridical Order, or a 'State of reason' whose ends transcend the interests and the ambitions of its leaders and rulers. Either violence on the part of the powers that be, or justice granted as equal for all people without distinctions founded on race, belief, or rank.

The history of Political Science is called by Paul Janet the 'history of reason through centuries more and more intervening in social and political affairs.' In critical moments, as in the present, when humanity is tragically exploring its future, at the crossroads, the compass of basic political philosophy must orient the analysis of modern problems. After all, modern problems are too old. They are those that Socrates discussed with Gorgias or Protagoras, those of the basis for a civic life of men in the State, and of the States in the international community. The evolution of personal and political liberty belongs to the history of institutions as well as to the history of human thought. All countries, all peoples contributed in some way to its development. I intend to evoke the contribution of the founder of the Spanish School of Natural Law to the growth of political philosophy at the beginning of the Modern Age.

PAGINATION INCORRECT

I

Francisco de Vitoria was born in 1480, and at a very early age entered as a novice in the Dominican monastery at Burgos. He was sent to Paris and studied six years at the Sorbonne where he became a professor for nine years at the College of Saint Jacques. There he met another great Spanish humanist, Luis Vives, as well as the French Buillaume Bude', and became acquainted through his works with Erasmus of Rotterdam, whom Vitoria had formerly defended at theological gatherings. Vitoria and Vives combated together, although through different means, the nominalism which prevailed at that time at the Sorbonne, and which was professed by the famous Aragonese teacher Gaspar Lax, among others. He received his degree in 1522, returned to Spain and became Director of Studies at the College of Valladolid. In 1526, he occupied the Chair of prima of Theology in the University of Salamanca, where he was triumphantly elected by the students according to the customs of that time. For twenty years, Vitoria taught at that famous university, where the very benches and tables at which his pupils marveled over the wisdom of their master have been preserved to this day, knife-carved with inscriptions. There was not a room large enough in the University to hold the thousands of people who wished to hear his lectures. Nevertheless, many of his works have been lost to posterity, since they were not published by him. It was his method-as usual in the period-to dictate the lessons and to correct the work of his pupils; and many of his lessons were then published under other authors'names. This explains the fact that, for a long time after, the renown which he had attained during his life at Salamanca had vanished; his name and works also vanished into oblivion, only known by some learned scholars, until the resurrection took place in the twentieth century, not only for the author himself but for his school of thought.....

The chief collection of Vitoria's lectures was published only after his death. Edited in Lyons (1557), his Relectiones Theologicae cover a period from 1527 to 1543. The main ones were: De potestate civili, 1527, the two De Potestate Ecclesiae, 1532-3, De Indis, and De jure belli 1539. Among his disciples, one may mention.....the extraordinary figures of two Jesuits: Juan de Mariana (1536-1623) and Francisco Suárez (1548-1617), who close the period of splendor of the school of international Spanish jurists and theologians.

Vitoria and his school enlightened Spain during the reign of Charles V and Philip II. Charles of Ca.d's accession to the throne marks the beginning of the Austrian dynasty in Spain. Upon his arrival in the country at the age of 17, he did not understand the Spaniards or even their language; having been educated in Flanders, he spoke only German and entered as if it were conquered territory, surrounded by Flemish nobles to whom he distributed all the main posts, even that of President of the Castilian Cortes, which convened in 1518. The Spaniards were indignant and banished all the foreign courtiers from the Cortes, forcing the king to obey the rules of the kingdom. He must not entrust his administration to foreigners. He must learn Castilian in order to under-

stand his subjects better and to be better understood by them.' Finally, Charles complied and became one of the greatest monarchs in history, and compenetrated with his people. The prestige of Vitoria appeared and increased throughout this reign with which the Spanish predominance began in Europe (and it had to be prolonged during that of Philip II). New problems and new aims stirred the world at the starting of the Modern Age. Two great discoveries of the preceding century were widely exploited: the printing press and America. Their consequences interested the scholars and were discussed in the Universities, where the moral judgment of theologians and jurists was claimed or given without question. Vitoria's role was going to become a decisive one. Not only the personages with whom he dealt customarily, but even the Emperor came to him for consultation on grave matters of private or public ethics, because of his sound and loyal judgment.

Charles V entrusted him with various matters concerning the rule of his States and especially the conquest of the New World. The Pope consulted him on very delicate subjects which required a conscientious treatment, including Henry VIII of England's divorce from Catherine of Aragon. Vitoria wrote on that occasion his Relectio de Matrimonio, unreservedly defending the validity of the marriage of the younger daughter of the Catholic monarchs, at the same time that another Spanish humanist, Luis Vives, appealed to his friend Erasmus to defend the cause of the innocent Queen against the attacks of the violent English King. But the humanist of Rotterdam did not especially distinguish himself through heroism: in this same matter which caused the Chancellor Thomas More to accept death at the axman's hand rather than to renege on his conviction, Erasmus chose to preserve his own tranquillity egotistically. His answer to Vives, who attempted to make him confront Henry VIII, was: 'In the case of a Jupiter, one would rather present two Junos to him than to seize one away from him.' On the contrary, Vitoria, through consultation or through his own initiative, took a firm position, and one which he courageously maintained in all the main subjects of discussion which arose in his time, and there were many. His frankness of speech with regard to the most powerful men, and his independence of conscience, are an example of love of justice above all else.

Let us study some principal aspects of Vitoria's doctrine, through an examination of his texts which clearly set down the position of the jurist, who is both theologian and philosopher in the face of the practical problems of his time and of all times. He deals with matters requiring a solution not only inspired by ideal principles of justice but also by considerations of a practical nature. Both aspects are always closely related in his thesis, since this great Dominican is not inspired by Utopia. He solves concrete problems, applying fundamental norms of criticism and of a law which is superior to mere human law. He elaborates fully on this law and does not hesitate to contradict and oppose the ambitions of the monarchs, and particularly his own. His style is frank and elegant, extremely clear and expressive. He used the scholastic method, but rid of its dryness. One does not find in his work the

weightiness or the labyrinthian complications which are to be found in the works of other doctors of his period. Graceful in form, solid in doctrine, right in purpose, they are far from pedantic scholarship. It is a real pleasure to penetrate into a thought expressed with such direct dialectics.

Vitoria maintains the Thomis doctrine of the commonweal of society, for whom the public power exists, is organized, and is limited. But even more closely than St. Thomas, he stresses the lay nature of temporal authority, whose government does not have as its mission to assure the salvation of souls. In his study on origin of civil power (introduction to the Relectio de potestate civili), he upholds the thesis that everything is explained by its final cause, and society also. Following Aristotle, he reaches the conclusions that 'the source and origin of cities and republics is not human invention or artifice, but something born of nature.' From this, he draws an extremely important inference: if man's nature demands society, the nature of society demands power; since, without any authority, human groups necessarily fall into confusion.

According to Vitoria, no man has the right by natural law to force laws on others, since man is naturally free and is dependent only on God. Even though civil power is not exclusively in any man, it exists and is legitimate in itself. But Vitoria does not base it on considerations of religious nature, as was the general trend in the Middle Ages and also in his day. Being an eminent devotee of the Church, this Dominican uses neither religion nor ecclesiastical power to attain ends which are not properly those of the Church. Nor does he agree that difference in religion is a just cause for war, a thesis which the Christian rulers upheld all too easily in order to dominate the countries of 'infidels'; such a thesis being really the basis for Mohammedan thought: suppression of the infidel or spiritual conquest by means of war and material submission.

Most of the Spanish writers of political treatises in the sixteenth century teach that political power is not derived directly from God but from the people, even though, like everything which exists, political authority recognizes no other ultimate source than that of divine creation. Thus, one of the most original thinkers of that period, Fernando Vázquez de Menchaca, explains the proverbial Per me regnant reges implying causality in the same way that it is said that

> through divine ordinance, the rivers flow, fountains spring forth, plants grow, trees germinate, the sun sheds light, the moon and the stars shine, and some men read, some write, some plough, others sow, the leaves of the trees are stirred by the wind, the cat chases the rat, the eagle chases doves, or the dog chases rabbits, and many other manifestations of this nature. Then, in order for the ruler to perform

> jurisdiction through God's will [Vazquez de Menchaca concludes] it would be necessary that God in the examples outlined above, were maintaining jurisdiction through all those beings.

We see the priniples stated two centuries later by philosophers, masterfully proclaimed by Vazquez de Menchaca:

> All men are equal by natural law; all are born free. That is, not only is the whole world not subject to the jurisdiction of one man, but no man is or was subject de jure to rule by another, unless it is through his own will. Only through it may one man be subordinated to another. No jurisdiction or sovereignty may have its origin elsewhere.

The Reformation emphasized the theocratic idea as an interpretation of the divine right of princely power. Meanwhile, the most ardent opponents of the Reformation, especially the Dominicans and Jesuits, 'strove with all the weapons of the spirit in behalf of purely secular construction of the State and Rulership.' Thus, Domingo de Soto asserted: 'Spiritual power is derived from God, civil power from the people; for God gave to every man by nature the right of self-preservation; to make this practicable added the instinct of association, and gave to the "congregata Republica" the understanding that it must institute some form of government.' And Molina said: The 'potestas regia' is derived from the 'jus positivum,' but indirectly from the 'jus naturale'; thus from God.

The idea of a universal sovereignty over all men and peoples was not a new one. It had been held by several thinkers of ancient times, but not in the same manner as it was settled in Vitoria's time. The men of Antiquity and of the Middle Ages had a concept of universal society; nevertheless, they had not considered the States separately, and free as living members of an organized body. Their natural tendency led them to tie together the entirety of the world under one ruler. This universalism was indeed far from any kind of internationalism, since the relations where were established among the peoples did not constitute some kind of relation among the States. According to Professor Torres, it was Francisco de Vitoria who, with a practical sense and finality, set down the bases for all future internationalistic formulae, rejecting the typical universalistic patterns of the Middle Ages: that of the Empire as well as that of the Church in the political-temporal order of things. He built up, alongside of his forceful thesis of nationalities and of the States with their own sovereign independent government, his thesis on universal society upon natural, necessary and indestructible bases, whose elements were precisely those same independent States as interordinate ones. The old aspiration toward unification of the whole world under a political power (started in Antiquity by Alexander the Great and almost completely achieved by the Roman Empire) tempted constantly the Middle Ages throughout Christendom. It was emphased in Spain, at the beginning of the Modern Age, by Fr. Antonio de Guevara, Bishop of Guadix, who main-

tains that there should be a single supreme ruler in the world, just as in the smaller units of the same world: there is only a father in the family, a governor for a province, a commanding general for the army, a king for a nation. It was concretized by Hernando de Acuña in his motto: 'One Monarch, one Empire, and one sword.' Charles V's imperial ambitions encouraged such a cringing supporter of the Empire as Juan Ginés de Sepúlveda, whose absolute assertion of world imperialism provoked deep dissension among the theologians of Salamanca and Alcalá Universities, who were consulted by the Council of Castile.

But Vitoria strongly opposed the two current solutions of his time: that of the universal leadership of the Emperor, and that of the theocratic doctrine of direct power of the Pope, which placed the source of all temporal rulership in the supremacy of the pontifical head. He gave a solid foundation to the idea of Nation organized into a State. From there, he reached to envisaging a world-wide superior unity, where we can find the forecast of a League of Nations juridically constituted: 'For the whole world, which is in a way a single commonwealth, has the power to make laws which are equitable and applicable to all alike; and such are the precepts to be bound by the Law of Nations.' And he added: No one kingdom has the right to refuse to be bound by the Law of Nations: for it has been 'established by the authority of the whole world.' It is actually the concept of International Law, with guarantees of effectiveness which we have not yet seen to date, even though the most noble forces of humanity have been striving for it in our time. But in Vitoria's ideal, neither the Emperor nor the Pope holds sway over the entire world; their pretensions to universal rule were refused by him. And his argument against the second is noteworthy: The Pope is not the lord of the world. The non-believers who are out of his jurisdiction inhabit huge territories. Lay rulers are not under the Pope's jurisdiction like bishops and priests. Nor are they subject to the temporal power of the Pope in the manner of the vassal to his sovereign.

A noble attitude of International Quixotism is shown by Vitoria in examining the question of the right of intervention in another State when justice is at stake. For him, the principles of ethics must always prevail, even against his own king and country:

> If I were asked whether the king of Spain should be allowed to defend a foreign ruler's subjects when they are justly at war against their prince, my answer would be: If there is the slightest doubt about their justice, it is not right to defend or help them since they belong to another ruler, and thus disturbances would be created in the Republic. If a wrong were being committed by the prince against his subjects, if he were a tyrant and seized the possessions of citizens, it would be just to [for?] other princes to help them, since subjects may licitly defend themselves against their own prince; for princes must defend innocents, even though it may be against their own lord.

The supreme criterion for Vitoria is that of Justice, following St. Augustine's classic doctrine: 'If a State should order grave crimes to be committed or should issue edicts with this in view, then the human race should pronounce sentence to destroy such a State.' If these rules had been applied in our day, there is no doubt that international gangsterism would have been opportunely hindered.

A very deep sense of justice inspires all the Vitorian theory on national and international Law. Princes are submitted to natural Law, but also to laws promulgated by themselves. Sovereigns are never independent of Law. Even as legislators, they are bound by their own statuted law. 'It depends on their will to dictate a law, but not to choose whether or not to remain obliged by it; in the same manner as pacts may or may not be concluded, but once they have been done one is no longer free to accept or not his engagements! The legislator, Vitoria adds, would commit a serious wrong against the community , and against the citizens, if, being himself a part of the Republic, he would discharge himself from his own share in the burden. That sense of justice is extended to citizens who may not act against conscience, when it shows them clearly the injustice of a law or command of the prince. It appears especially in the case of war. According to Vitoria, soldiers and citizens are bound to examine the justice of a war and to refuse service in one which they are convinced to be unjust: 'If a subject is convinced of the injustice of a war, he ought not to serve in it, even on the command of his prince.' And he explains this rule as follows:

> No one can authorize the killing of an innocent party. Therefore they may not be killed. Again, a prince sins when he commences a war in such a case. But 'not only are they who commit such things worthy of death, but they, too, who consent to the doing thereof.' [Romans I] Therefore soldiers also are not excused when they fight in bad faith. Again, it is not lawful to kill innocent citizens at the prince's command. Therefore not aliens either.

Constantly, arguments taken from the study of internal law are transferred by Vitoria analogically into the international field. For instance, concerning the validity of international Law. Following the old principle: pacta sunt servanda. The force of an agreement is not then dependent upon the will or caprice of those who are in a position to observe it or not. They are compelled to hold to the consequences. This is a principle of public ethics and of international ethics, which is set forth by the Spanish theologian as primordial.

And now we are confronted with a principle which has sterilized many praiseworthy attempts on the part of international institutions, concretely in the pact of the League of Nations, where it played a very important, albeit paralyzing role: the principle of necessary unanimity among the members. Vitoria offers us the majority solution

as the most practical one. From a very democratic point of view, majority decision and not necessarily a unanimous one would suffice, in accordance with the nature of a regime of this type. Such an attitude is that of Vitoria concerning national as well as international law: 'Just as the majority in a State may, against the will of the others, set up a king who has power over the entire political community, so in Christendom, one monarch may be designated by the majority of the States, notwithstanding opposition by others, and all the princes and peoples will be obliged to obey him.' Vitoria explains it by reason of efficacy: 'If the consent of all were necessary, the needs of the community cannot be sufficiently satisfied, for unanimity is nearly never possible in a large group. The consent of majority is therefore sufficient in order to have the right to accomplish something.' In the Relectio de Indis, the Law of Nations is presented as derived from natural Law and having the manifest power of begetting rights and obligations; the consent on the part of the majority of the world is only needed to establish it, especially if it is for the common good of all. The term jus gentium is used by Vitoria not only in the sense received from the Roman jurisconsults, but more frequently in the meaning of International Law. He says: 'What natural reason has established among all nations is called the jus gentium,' instead of the inter omnes hominis of the Institutes of Justinian.

II

Vitoria's theories on International Law would not be understandable without a consideration of the geographical, political, and military events characterizing his time. They were the occasional motive to creating a renewed conception upon relations between peoples, relations which Vitoria and his school put into the channel of juridical patterns.

The discovery of the New World changed the face of the earth, not only on maps but also in the minds of those of the Old World. Geographic knowledge transformed the current cosmological concepts. Just before undertaking his journey, Columbus' plans were attacked by objections based on the skeptical attitude taken from prejudices such as those which Lactantius ingenuously had proffered opposing the existence of people in regions on the other side of the planet:

> Is there anyone so foolish [he asked] as to believe that there are antipodes with their feet opposite to ours; people who walk with their heels upward, and their heads hanging down? That there is a part of the world in which all things are topsy-turvy, where the trees grow with their branches downward, and where it rains, hails, and snows upward? The idea of the roundness of the earth [he added] was the cause of inventing this fable of antipodes, with their heels in the air; for these philosophers, having once erred, go on with their absurdities, defending one with another.

When all these 'absurdities' became real, the Europeans soon acquired a completely new concept of the world, and a keen desire to learn about it, to master it and to exploit it in its entirety; and this era of the great discoveries created juridical, moral, and human problems which the school of Spanish theologians and jurists was to have a great hand in solving.

Very small causes can produce big results. The search for spices, in which a very lucrative trade was done in the fifteenth century, was one of the main reasons of a practical nature for the expedition undertaken by Columbus to discover a maritime route to the Indies. But in Columbus' mind and above all in Isabella's when backing the expedition, there were other, loftier motives, at first only vague anticipation, and then finally realization: and these motives had tremendous results: the extension of Christian civilization, and of the language and culture of the Iberian Peninsula to the new world. And in the face of abuses and cruelties on the part of the adventurers who followed up to exploit the riches, and the men who were ignorant of the worth of these riches, by some sort of humanitarian reaction; for the first time, the equal dignity and freedom of all men was proclaimed. The date 20 June 1500 is memorable in this respect. On that date, the Catholic monarchs ordered Columbus to free the Indians he had brought back to Spain with a view toward selling them. Never before had the principle of liberty been so solemnly proclaimed with regard to the non-civilized peoples. The entire juridical and legislative history of Spanish colonization represents a long struggle between that principle, which was repeatedly supported by kings, theologians, and jurists, and the opposing principle of slavery and exploitation of the Indians and of their work for the utmost advantage of those who thought themselves allowed to subdue men and to exploit as absolute lords their capacity to work.

Before seriously studying the human, moral, juridical, and political problems which the discovery of the new American territories occasioned, Vitoria had adopted clearly defined stands, first privately holding forth to those who were interested in his anger on certain methods used by the conquerors; and then publicly advocating a system of government for the Indians which was inspired by a broad and liberal standard, as in his Relections De Indis and De jure belli, given in 1539.

Taking a firm stand against the ideas of his time, in his first Relection De potestate ecclesiastica, Vitoria affirmed that neither is the Pope Lord of the world, nor does the temporal power of princes depend on the Supreme Pontiff. 'If the Pope should say that this or that administration did not suit the temporal government of the Republic, he is not to be heeded [papa non est audiendus]; for judgment on this subject does not belong to him, but to the Prince; and even if what the pontiff said were true, the authority of the Pope has nothing to do with it.' Thus, the attributions of each power --the ecclesiastic and the political--were well defined.

Neither the Pope nor the Emperor was flattered by Vitoria, whose very independent views admitted no other unconditional submission but to Justice. In so far as the Indians were concerned, and some theologians close to the Emperor, who, in order to flatter him, proclaimed his absolute right over the natives of the discovered countries, Vitoria's attitude was made public in 1535, relating to the possible means of acquiring mastery: 'Christians may not forcefully occupy the lands of the infidels, if the infidels really own them as true masters; that is, if they have always owned them.' There is a legal aspect to dominium over lands. There are many moral questions about imperium over men. Both kinds of problems are nevertheless connected. The first one appears widely developed throughout 'the First Relectio of the Reverend Father, Brother Francisco de Vitoria on the Indians lately discovered.' The summary of the first section of this Relectio De Indis contains questions such as the following: Whether the Indian aborigines before the arrival of the Spaniards were true owners in public and private law; and whether there were among them any true princes and overlords. Whether ownership is lost by reason of non-belief. Whether a person of unsound mind can be an owner...But Vitoria added this other settlement: Inasmuch as the Indian aborigines were not of unsound mind, they were not precluded from being true owners on pretext of unsoundness of mind. That natives were true owners is clear to Vitoria: 'The aborigines undoubtedly had true dominion in both public and private matters, just like Christians, and neither their princes nor private persons could be despoiled of their property on the ground of their not being true owners.' And even: 'It would be harsh to deny to those, who have never done any wrong, what we grant to Saracens and Jews, who are the persistent enemies of Christianity. We do not deny that these latter peoples are true owners of their property, if they have not seized lands elsewhere belonging to Christians.'

The second section of this Relectio De Indis analyzes the illegitimate titles invoked for the subjugation of the aborigines of the New World to the power of the Spaniards. And Vitoria asserts: (1) The Emperor is not the lord of the whole world. (2) Even if the Emperor were the lord of the world, that would not entitle him to seize the provinces of the Indian aborigines and to create new lords and put down the former lords or levy taxes. (3) The Pope is not the civil or temporal lord of the whole world, in the proper sense of civil lordship and power. (4) Even if the Supreme Pontiff had secular power over the whole world, he could not give that power to secular princes. (5) The Pope has temporal power, but only so far as it is subservient to things spiritual. (6) The Pope has no temporal power over the Indian aborigines or over other non-believers. (7) A refusal by these aborigines to recognize any dominion of the Pope is no reason for making war on them and for seizing their goods.

Among the pretexts currently adduced to justify a war of conquest against the natives, there was that of their refusal to accept the Christian faith. Vitoria does not agree with it, because

he does not admit compulsory conversion; and then, because he does not think the Indians are bound to believe directly the Christian faith announced to them 'merely because it has been declared and announced to them that Christianity is the true religion and that Christ is the Saviour and Redeemer of the world, without miracle or any other proof or persuasion.' Such announcment in itself is no proof or incentive to belief, in the opinion of Vitoria, who agrees with Cajetan 'it would be rash and imprudent for anyone to believe anything, especially in matters which concern salvation unless he knows that this is asserted by a man worthy of credence, a thing which the aboriginal Indians do not know, seeing that they do not know who or what manner of men are announcing the new religion to them.' That the aborigines were not bound to believe is confirmed by the consideration that 'if the Saracens were at the same time to set their creed before them in the same way and without anything more, like the Christians, they would not be bound to believe them. Therefore they are not bound to believe the Christians either, when without any moving or persuasive accompaniments they set the faith before them, for they are unable, and are not bound, to guess which of the two is the truer religion.'

Most of the contemporaries and followers of the great Dominican, practically men of the Church, insisted upon this fact that infidelity was not a just cause for war. They continued the official doctrine of the Church, proclaimed in the thirteenth century by Pope Innocent IV: 'No one has the right to force infidels to accept the faith, for each man has the right to follow his own will, and nothing but the grace of God has any importance in this instance.' Similar affirmation can be found in the works of the Spanish theologian-jurists. So Covarrubias asserted that one cannot declare war on infidels just because they are infidels, and this notwithstanding the authority of the Emperor or the Pope. Insisting upon it, Vitoria said:

> I would not dare to assert that religion has been presented to them in such a manner that they should be considered at fault if they do not accept it. For if they have not seen miracles or visible signs of the truth of the religion, on the other hand they have seen countless impious crimes and scandals committed on the part of the Christians. And even if they were at fault for such a fact, it would be no excuse for waging war on them, and pillaging. For, according to St. Thomas, one should not force anybody to believe. Belief is a voluntary act, and the will is lessened through fear. The Councils of Toledo forbade the use of intimidation and threats against the Jews to make them accept the faith. And it is a proceeding which is contrary to the practices and customs of the Church. Finally, war should lead the infidels not to believe but to simulate belief; and such simulation of belief would constitute sacrilege.

Another title was put forward for conquest: sins of the natives against natural law; but Vitoria's answer is clear: 'Christian princes cannot, even by the authorization of the Pope, restrain the Indians from sins against the law of nature or punish them because of those sins...Further, the Pope cannot make war on Christians on the ground of their being fornicators or thieves, or, indeed, because they are sodomites; nor can he on that ground confiscate their land and give it to other princes'; and he adds with a keen sense of humor: 'were that so, there would be daily changes of kingdoms, seeing that there are many sinners in every realm.'

The question of annexation by consent of the inhabitants, by voluntary choice, could present less difficulties to some people, since it would be a non-violent way. Nevertheless, Vitoria gives a denying answer to its supporters too, and his arguments imply a very democratic mind as well as a deep observance of fair play: if on the arrival of the Spaniards we find them declaring to the aborigines the King of Spain has sent them for their good and admonishing them to receive and accept him as lord and king; and the aborigines replied that they were content to do so, 'I, however, assert the proposition that this title, too, is insufficient; in the first place, because fear and ignorance, which vitiate every choice ought to be absent,' and the Indians

> did not know what they were doing; nay, they may not have understood what the Spaniards were seeking. Further, we find the Spaniards seeking it in armed array from an unwarlike and timid crowd. Further, inasmuch as the aborigines had real lords and princes, the populace could not procure new lords without other reasonable cause, this being to the detriment of their former lords. Further, on the other hand, these lords themselves could not appoint a new prince without the assent of the populace.

Vitoria respected the will of the natives so much so that he applied to them the normal rules of democracy and wanted to protect them against their own declarations of will obtained by suggestion on the part of the crafty conquerors. Therefore seeing that in such cases of choice and acceptance as these there were not present all the requisite elements of a valid choice, he declared the title under review 'utterly inadequate and unlawful for seizing and retaining the provinces in question.'

Does it signify that every title of political dominion resorted to by the Spaniards was rejected by the acute dialectics of our theologian? Not at all. He denounced and discredited hypocritical double-dealing reasons too often invoked in order to hide ambition under noble pretexts. Rights of discovery were acknowledged, but limited by the human aims of colonization and inspired by the interest of the natives. The third section of this same Relectio

De Indis deals with the lawful titles for colonization. The first, according to the theologian of Salamanca, is that of 'natural society and fellowship: The Spaniards have a right to travel into the lands in question and sojourn there, provided they do not harm the natives, and the natives may not prevent them.' Freedom of movement, as well as freedom of trade, is founded on jus gentium. On the other hand, 'Christians have a right to preach and publish the Gospel in the lands of barbarians,' but Vitoria carefully safeguards their liberty; asserting that 'the Indians are not to be warred into subjection or despoiled of their property, if they give the Spaniards unhindered freedom to preach the Gospel, and this whether they accept the faith or not.' Vitoria admits that the Indians might have come under the sway of the Spaniards through true and voluntary choice, or by reason of alliance and friendship. This friendship could be shown by helping them to set up a juridical regime and administration:

> Although the aborigines are not wholly unintelligent, yet they are little short of that condition, and so are unfit to found or administer a lawful State, up to the standard required by human and civil claims. Accordingly they have no proper laws or magistrates, and are not even capable of controlling their domestic affairs; they are without any literature or arts, not only the liberal arts but the mechanical arts also; they have no careful agriculture and no artisans; and they lack many other conveniences, yea necessities, of human life.

Inspired only by this principle of mandate or tutelage, Vitoria accepts the possibility of establishing a Spanish administration over those territories 'for their own beneift.' Actually Spain transferred to America its culture, enacted laws protecting freedom and the right of the natives, introduced in the new world animals and plants never before known in those countries. In a word, Spain did not fail but performed its mission by christianizing and civilizing the peoples discovered and ruled in her name.

Some time before the lectures On the Indians, whose main principles we have just examined, the conquest of Peru by Pizarro and the capture of the Inca chief Atahualpa and his execution were reported and spread through Spain by some of the participants in those deeds upon their return to the country. These were indeed the more cautious members of the expedition who, instead of continuing an adventurous and exciting life of conquest, preferred returning to enjoy the spoils calmly in their own land and to avoid in the future dangers which they had already experienced. A learned Dominican of our time, V. Beltrán de Heredia, explains this in a very interesting lecture given in 1929 at the F. de Vitoria chair of the same University of Salamanca: Those men started to feel remorse regarding the legitimacy of their acquisitions, and since they were believers, they tried to solve the problems of their conscience and sought the advice of theologians and moralists; some of them consulted Vitoria. We have a precious

document demonstrating his opinion on this subject--the letter which he wrote to Father Miguel de Arcos, head of the Dominicans of Andalusia. As recently published by Beltrán de Heredia, Vitoria's Castilian prose, interpolated with Latin sentences, denotes that he followed the line of least resistance to give more force to his expressions. It is a magnificent proof of the independence of judgment which he usually demonstrated.

To begin with, he bemoans the references which have come to his attention on Indian matters, 'which freeze my blood only to hear about them.' It is easy to see that his attitude was not always well received by those who consulted him, for:

> If one condemned them harshly [he said] they were outraged and appealed to the Pope, accusing one of being schismatic, and others went to relate to the Emperor that one was condemning his Majesty for having condemned the conquest of the Indies...I, who cannot falsify, say no more than that I do not understand; and that I do not see the certainty and justice in such proceedings; let them consult others who understand better. But when they ask me to answer categorically, finally I say what I feel. With regard to those of Peru, I fear that they are the sort who volunt divites fieri; of them it was said: Impossibile est divitem intrare in regnum caelorum. And since the wealth of which they took hold is that of others, no other title can be ascribed to it, except jure belli.

But before all else, 'I do not understand the justice of that war; nec disputo if the Emperor may conquer Indian lands, for I presuppose he may strictly do it. But from what I have heard of those who were warring against Tabalipa (thus he called Atahualpa) neither Tabalipa nor his people had ever committed harm against the Christians, nor provoked any war against themselves.' Note the severity of his arguments against his own countrymen. And as the defenders of the conquerors of Peru answered that the soldiers were not obliged to examine this, but to do what they were ordered by their captains, Vitoria accepted only the answer 'of those who did not know that there was no other cause for the war but to pillage.' He continued:

> I shall not stop here. It must be considered that this war is not against foreigners, but against actual vassals of the Emperor, and it is just as if they were natives of Seville, who might think that the Spaniards were tyrannical with them and warring unjustly against them. Even the Emperor might have just right to conquer them, the Indians do not know it and cannot know it. And thus virissime sunt innocents quantum attinet ad bellum. And thus, supposita tota justitia belli ex parte hispanorum, non potest bellum ultra procedere

> further than subjugate them and compel them to acknowledge the Emperor as their prince, in quantum fieri poterit, minimo damno et detrimento illorum, but not to plunder and ruin them quantum spectat ad bona temporalia.. Actually if the Indians are not men but monkeys, non sunt capaces injuriae. But if they are men and fellow beings, I see no excuse for the ruthlessness and tyranny of those conquerors, nor do I know what service they are rendering to their prince when they destroy his vassals.

Vitoria emphasizes his argument with this example: 'If I wanted to become archbishop of Toledo and if they were to call me to such a post by means of my supporting the innocence of these peruleros [conquerors of Peru], I would not dare to do so. I would rather lose my tongue and hand than to utter or write such an inhuman thought, which is apart from any Christianity...'

Those who came to consult him tried to appease their consciences by offering some hundred ducats to the poor, as a means of restitution. But Vitoria was not willing to admit to such an easy expedient: First, because restitution must be made to those who were robbed; and 'if everybody who robbed wished to make restitution, they know whom to make it to.' It was clear, 'just as if they were robbing Salamanca.' Then, the least they could do would be to give half of their ill-gotten gains to the poor, if they choose this manner. 'But I cannot excuse them because they give two or three hundred ducats.' It was a matter of making reparation for an injustice, and neither the Emperor nor the Pope might permit composition by sacrificing the wronged.

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In 1537-8, Vitoria pronounced one of his lectures on this strange subject: Whether it is right to eat human flesh. The above-named Dominican, V. Beltrán de Heredia, discovered it recently as part of the Relectio De Temperantia, the text of which appeared mutilated by segregation of that passage, revealed as of greatest importance to know his attitude upon certain problems concerning American colonization. For one of the pretexts given for the domination of the Indians was that they sacrificed human beings, that they were cannibalistic and committed dreadful crimes. Vitoria took up the argument and analyzed it in the light of Christian philosophy.

'May or may not the Christians, because of the ritual custom of eating human flesh, as is reported from the natives of Yucatan, war on them by their own authority or by commission of the Pope?' This was the fifth question studied in the Relectio De Temperantia, whose solution appears in the document discovered by Beltrán de Heredia. One must note that the opinion of other jurists of the period was that the infidels' crimes, when they were contrary to the revealed divine law, could not be punished or restrained by a foreign power; but those crimes contrary to natural law could be punished, for, in the first case, the transgressors could not be shown that they were doing wrong,

since they were not believers of the law forbidding them; but in the second instance, it was otherwise. Vitoria answers this with an argument against the 'civilizers' who commit similiar sins: If war might be waged against those infidels on account of adultery fornication, robbery, perjury, and crimes of which they can be convinced, analogically a Christian prince will be allowed to force Christians of another kingdom by arms when they commit those crimes; and a pari those same infidels might wage war on the Christians who are delinquent in that respect. And Vitoria replied to those who argued that princes might do so by order of the Pope: 'The Pope has not jurisdiction over the infidels, therefore it is meaningless to seek his support to subdue them. The Christian princes have no more power with the authorization of the Pope than without it, in this regard. The Pope cannot give laws to the pagans, or compel them to follow his laws.' Vitoria bases his reply on St. Paul's statement: What right have I to pass judgment on those who are outside? (Epistle to the Corinthians 5, 12), as commented by St. Thomas: The prelates received jurisdiction only over those who have accepted faith.

Regarding the problem whether the Christian princes may wage war on barbarians who are anthropophagi or practice human sacrifices, Vitoria asserts that the right of the Christians does not lie necessarily in the fact that such customs are contrary to natural law, but in the fact that those people inflict serious injury on their victims; the Christians may try to free them by themselves or by calling for the help of others. But if war is waged on this ground only, afterward it is not just to proceed further and occupy the territory and seize possessions. The war does not give the right to remove freedom and property from the enemy further than necessary to repair the offense and avoid its repetition in the future.

War waged against barbarians is compared with that waged between Christians. For the 'justice of war is not derived precisely from difference of religion.' With regard to tribute, equality is proclaimed among Christians and non-Christians with the affirmation that 'the Christian prince may not submit his non-believer subjects to heavier taxes than those who are Christians.' Equality before the law is supported in this manner: 'A Christian prince who gains sovereignty over pagan people is obliged to promulgate laws which are conducive to the good of the Republic,' even in temporal matters, so that those temporal interests are preserved and permitted to flourish, and the people must not be stripped of their money and gold.' Vitoria acknowledged to the Indians even the right to coin money; 'If it is advantageous for them, the king does wrong to oppose, for he prevents the good of the Republic.' In conclusion, that which the king must do for his own country, he must also do for the barbarians who are his subjects.

This is the exemplary lesson issued from the lectures of Vitoria on Spanish politics with the natives of America. And it is not an isolated one. Generally on the name of Las Casas is quoted

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as a defender of the Indians. Vitoria deserves at least the same glory. He supported the same cause, more intelligently if less passionately. After them and for several centuries, anywhere and everywhere that there were abuses to be denounced, a Spanish voice cried out against injustice, and, what is more important, against injustice committed by their own rulers and countryfellows; for men are usually more inclined to detect abuses of others and accept their own. That is the merit of Spanish Quixotism, which appears to us in the guise of an unpopular non-conformism, inspired by the most independent position.

III

The Relectio De Indis offers us an organic doctrine on colonization, in connection with which the outlines of a juridical theory on war are set up. But such a serious theme as that of war deserved a broader development; and the theologian of Salamanca dealt with it in another Relectio, De jure belli, and also in his Comment upon St. Thomas Acquinas' Secunda Secundae, question 40, published by Beltrán de Heredia, in 1932, where some aspects of that problem are treated in a different way than in De jure belli. Vitoria examined the legitimacy of war, departing from the distinction between the use of violence by individuals and of force by the State. 'The individual person certainly has the right to defend himself and his family, but not to avenge an injustice or recover through violence things which have been seized from him.' In an organized State, the guardianship of individual rights is in charge of the authorities; an individual cannot take justice in his own hands, as would be the case in the pre-organic society. But, 'The Republic may not only defend itself but also avenge wrongs'; for as Aristotle said: 'The Republic must be self-sufficient and it will be unable to preserve the public interests, and its own security if it cannot avenge wrongs committed and go to arms against the enemy.' According to Vitoria, the State acts as an organ of Law (we can see the modernity of such a concept of the State), and therefore controls the use of armed force. He establishes the conditions under which war may be declared and waged, and also the legitimate means of pursuing it. Prudence must guide nations in such a case: 'Should the monarch have authority to wage war he must not seek an opportunity to do so, but live peacefully with all men,' as St. Paul instructed in Chapter 12 of his Epistle to the Romans, inasmuch as 'all men are our neighbors and we must love them.' It is of the 'utmost cruelty to seek occasions and find pleasure in killing those whom God has created and for whom Jesus died.' Vitoria concludes by stating that 'One must wage war only if forced to'. He condemns the warlike spirit and the facility with which rulers are wont to wage wars, for futile motives or though a combative spirit, or through ambition and greed. In Vitoria's doctrine, 'War can be condoned only if there is a just reason for it.' War is considered as a tool of punishment for the State, through the lack of a higher force over the offender and the offended.

There is a single and only just cause for commencing war, namely a wrong received. War is for the purpose of avenging a

wrong and of taking measures against an enemy. But there can be no vengeance where there is no preceding fault and wrong. Once war has been declared for a just cause, Vitoria controls the methods of waging it. It is never the aim to ruin the nation with which one is at war, but 'to obtain reparations which are due, to make Justice triumph, and to gain assurance of peace.' Once the enemy has been vanquished, Vitoria warns the victor to use moderation, and to act as a judge pronouncing a just sentence which may be to the satisfaction of the wronged nation, without destroying the wrong-doer, albeit prescribing the necessary sanctions to repair the wrong, to punish the crime and to compensate the harm caused; always with regard to consolidating peace. After victory has been won and redress obtained and peace and safety have been secured, it is lawful to avenge the wrong received from the enemy and to take measures against him and exact punishment from him for the wrongs he has done.

The objection may be raised that the victor, who is involved in the affair, may not be an impartial judge. But in the strictly juridical stand taken by Vitoria, he must act as if he were an impartial judge, since at that time there was no organization over the States, or any international court of arbitration. This is a shortcoming which Vitoria attempts to overcome by instilling the proper spirit in the persons who have to decide. Another possible objection could be to suppose that Vitoria envisaged as the victor the one who has reason on his side, and as vanquished the State which has transgressed against justice and thus provoked the war; which could be interpreted as a mentality accepting the ordeal according to which God confers victory upon the just rather than the unjust. Nevertheless, we must realize that the theologian of Salamanca, who indeed was familiar with the uncertainty of truimph through arms--and the fact that the greater force is not always on the side of the greater right--bases his theory on the hypothesis that the victor who is to judge actually is the one who is on the side of law and order. This same objection could be raised in the case of those who in any period, including ours, try to subjugate the unjust aggressor by force. Is war to be considered a normal means to solve international problems? No. And even in general terms it might be said that the unjust aggressor who prepares for the favorable time to commit his plunder is more able to win a war than the one whom he surprises and catches unprepared; the aggressor chooses the moment which is the most favorable for the triumph of his unjust cause. But there are circumstances in which men and nations are right and compelled to combat for justice and to do everything possible to impose it upon people and nations who condemn it--even if they are not assured of success in obtaining their ends. In such cases, when one is inferior in military power, either one acceppts defeat without struggle, or one fights to defend the right cause, even though knowing defeat might be the outcome, in order to save one's honor and affirm one's non-acceptance of injustice. If inferiority of means can be an excuse, acceptance of the risk under such conditions is always a glory; and to be right implies also a force, sometimes not only a moral one.

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In order to consider a war as just, is it sufficient that the ruler envisage its cause as such? According to Vitoria, this does not suffice. He requires something more concerning the declaration of war, and something more concerning the means of waging it.

The consent of the learned men, and that of the people in general, is asked by our theologian, with a keen sense of the great responsibility involved in the declaration of war. For it is possible that the ruler can be motivated by factors which make his judgment partial: 'It is essential to examine carefully the justice and causes of the war and to heed the arguments of one's adversary, if one wishes to discuss ex equo et bono, for as Terentuis said: 'the prudent man must solve differences through discussion before resorting to force.' 'One must consult wise and honorable men who are able to judge freely and without anger, without hatred or partiality; for if these passions play a part, according to Salust, the truth will not be easy to attain...Mistakes under these conditions would not be excusable, for the problems are of such importance and involve dangers and calamities for a great many men who are neighbors and whom we must love as we love ourselves.' Senators, rulers, and all those who are called to counsel the administration of the State must be heard. If an unjust war is undertaken through their negligence, 'they are considered accomplices, for one may rightly blame a man for what he might have avoided, even though he did not actually do any wrong. The opinion of the king or a few men is not sufficient; many men, and just men, must decide upon a war.'

On the other hand, Vitoria and the specialists on Canon Law of his day try to attenuate the evils of war, to safeguard the innocent, the non-combatants, and avoid destruction of cities under pretext of military operations. And one must realize that in those days unlike today, war was waged only by armies; the population did not participate; and the means of destruction were not as widespread and totalitarian in nature as they are today. Vitoria states that the innocent must not be killed under pretext that they may at a later date become dangerous; 'for a crime must not be committed even to avoid a greater one, nor must someone be killed for something of which he has not been guilty ' Thus he forbids the killing of the sons of the Saracens under the pretext that they might be dangerous later to the Christians.

There is a supreme rule of ethics laid down in Vitoria's arguments on war: the end does not justify the means; thus not everything is legitimate in war even though the war in itself may have just cause. In the treatment of prisoners, in the use of defensive means, offensive methods, and many other questions which come into being when force is being used, in extreme cases in which there is no other method which may be employed to safeguard the rights of the community against another nation which tries to destroy it, Vitoria's doctrines are centuries in advance of his

time, and enlighten us on subjects which we have seen arise during the past fifty years in international conferences and congresses, in pacts and agreements among nations, and attempts to restrict as much as possible the horrible consequences of war as long as the ideal of its entire suppression is still not reached.

The study on Vitoria's theories must be completed with that of Suarez' doctrines. Both theologians and jurists represent the high tide of Spanish school of natural law. Suarez is not a direct disciple of Vitoria: he went to study at the University of Salamanca in 1561, seventeen years after Vitoria's teaching there. But Vitoria's echo resounded everywhere and Suarez prolonged it notwithstanding his divergent attitude in several basic matters. The work of the theologians, jurists, and humanists of the sixteenth and seventeenth centuries may provide our period with criteria of moral valuation, which are so essential in a society in which the rivalry between interests and the disregard of justice are clouding the clearness of judgment and making people forget too frequently the boundary between licitness and illicitness. For International Law, before being constituted definitely as positive law to be accepted by all, asserts itself fundamentally as an International Ethics inspired by the highest human values.

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[FOOTNOTE REFERENCES AUTHORITY OMITTED]

The Law, Human Dignity, and Human Civilization

by K.N. Llewellyn

(Science, Philosophy, Religion Symposium, 1943)

"Human Dignity" and "Human Civilization" are not simply to coupled for consideration from the angle of law and legal institutions. They require separate consideration. That fact flows from the nature of law and the work of law in a modern society.

For from the standpoint of a developed legal system, legal work proceeds almost wholly by way of classification and treatment of categories. Only poorly built categories call for much individuated exception, the presence of which or the need for which is therefore in all but odd cases a symptom of inadequate initial structuring. Sound legal structuring does indeed call for ongoing redirection of categories, so that the lines of the categories may be always subject to their reason; and it calls for the edges of categories to be flexible under the influence of reason and fresh experience; but that goes to remodeling of the categories, rarely to individuation inside them. What cannot as yet be categorized to satisfaction is capable only of bad legal treatment, or else of what one may call semi- or pre-legal treatment, say of the unt rammeled juvenile court type. Such semi- or pre-legal operation is not anti-legal, but is complementary or implementary, and is (although not "formed" or formulated) a right and true part of the legal structure itself, whenever it moves in terms of general objectives of purpose and manner to which the legal system is geared; and when it moves in terms of the leeways recognized by and within the structure for the play to allow of judgment and cumulative experiment in good faith; and, finally, when the individuated or "discretionary" operation moves in terms of quest for a pattern to guide treatment of what may at the moment seem a unique case. Put from the other side: the semi- or pre-legal uncharted movement is anti-legal when it occurs in bad faith, or occurs without quest for some possibly emerging pattern; or when it persistently jumps the recognized limits or even persistently pushes daily action out to limits which exist only for the occasional case. But a failure of such complementary or implementary action, when it is needed, or a failure to reach for proper remodeling of categories--at need by interstitial individuated action--that spells legalism and woodenness, i.e., "law" which has lost touch with law's reason for being.

Against this picture Human Dignity appears in two major aspects. One is that that concept suggests lines and limits within which categories and consequences are wisely and rightly to be restrained. The abolition of chattel slavery and the "race or color" amendment language suggest the problem of such "reasonable" limits on classification; so does the concept of second-

class citizen. Such limits are negative in flavor; they only set certain outside prohibitory marks. On the side of consequences, the problem is suggested by flogging as a punishment.

But Human Dignity also enters the picture on the positive side. Categories can be built in an effort to recognize, encourage, even produce human dignity. The problem is suggested, in successive degrees of positive drive, by minimum wage and work conditions; freedom to organize and compulsory collective bargaining; an effective combined unemployment relief, industrial reconditioning placement and morale program.

Both as to the limits set and as to any positive measures, human dignity is an informing ideal and goal. At no time, however, is it a sole goal, for <u>any</u> legal system. The very idea of classifying denies some individualization, and denies recognition of a very fair portion of dignity which may be not self-righteous, but righteous. There is, for instance, no reason inherent in the nature of our polity for recognizing conscientious objection, such recognition is a luxury-product--of great long-range value, but entirely dependent upon immediate surplus of man-power and organization-power. The idea of classifying, moreover, serves another valid ideal which oftentimes competes with that of human dignity, and that is: Justice. Again, or in some ways as a part of the same idea, The Law is a team-organizing and team-direction institution, not merely a repressive institution; and first, survival of the team, second, the dominant team-objections, will and should crush out any human dignity that cannot be otherwise handled. Thoreau presents that problem or in a lesser way Mormon polygamy. Conscription presents it hugely. Finally, martial law presents it.

In result, the effective large-scale operation of ideals about human dignity within a legal system is a product of surplus. Not solely so; the "necessary" causative factors are not of themselves "sufficient" causative factors. The matter in question is also and equally a product of idealism, and of the supremacy of particular ideals. But it is vital to remember that surplus is the pre-condition to <u>large-scale</u> (which means <u>legal</u>) effect of the idealism.

And it is only with that established, that one can come to the relation of The Law to Human Civilization. Human Civilization I take to be the total machinery which society has grown itself to carry on its work and traditions, and, in our own variety, to refresh itself and to leave some room for individuals to build themselves into different kinds of people. Civilization can only in thought or in particular details be separated from The Law. But plainly it can be seen as setting some limits on The Law. Those limits are not what men used to think they were, if The Law is in hands well enough equipped and organized, and ruthless enough; and thorough in its attack on the shaping of the young.

This means that any The Law informed by the ideal of human dignity is a The Law limited much more than one which is not so informed. Civilization therefore enters the picture, second, as providing the wherewithal for the human dignity ideal to be in some degree maintained: as providing the requisite surplus. It enters the picture third, as providing rearing machinery for the young and living machinery for the adult, which either inculcate and encourage the prevalence of the human dignity ideal, or do not, or (as in our own Civilization) do both at once, and still at individually unreckonable cross-purposes. In this last situation, the particular role of The Law becomes clear: it is to offer institutional structure (Constitutional provisions, courts), symbols and slogans (Bill of Rights, Free Speech, Right to Strike), and rearing machinery (schools) to make the ideal of the soberer man or moment have teeth even against the impulse of the more passionate moment or man. It is also to build this institutional structure solid enough, and in a form remote enough from easy change, to make it have teeth across the generations--a job for which some kinds of legal institution are peculiarly fitted, especially when they are intrenched, tradition-hallowed, and interlocked with supporting ways of action and thought.

St. Thomas Aquinas II, Summa Theologica, (ed. Pegis, 1945) 784-805

Second Article
WHETHER EVERY HUMAN LAW IS DERIVED FROM THE NATURAL LAW?

We proceed thus to the Second Article:--

Objection 1. It would seem that not every human law is derived from the natural law. For the Philosopher says that the legal just is that which originally was a matter of indifference. But those things which arise from the natural law are not matters of indifference. Therefore the enactments of human laws are not all derived from the natural law.

Obj. 2. Further, positive law is divided against natural law as is stated by Isidore and the Philosopher. But those things which flow as conclusions from the common principles of the natural law belong to the natural law, as was stated above. Therefore that which is established by human law is not derived from the natural law.

Obj. 3. Further, the law of nature is the same for all, since the Philosopher says that "the natural just is that which is equally valid everywhere." If therefore human laws were derived from the natural law, it would follow that they too are the same for all; which is clearly false.

Obj. 4. Further, it is possible to give a reason for things which are derived from the natural law. But it is not possible to give the reason for all the legal enactments of the lawgivers, as the Jurist says. Therefore not all human laws are derived from the natural law.

"On the contrary," Tully says: "Things which emanated from nature, and were approved by custom, were sanctioned by fear and reverence for the laws."

"I answer that," As Augustine says, "that which is not just seems to be no law at all." Hence the force of a law depends on the extent of its justice. Now in human affairs a thing is said to be just from being right, according to the rule of reason. But the first rule of reason is the law of nature, as is clear from what has been stated above. Consequently, every human law has just so much of the nature of law as it is derived from the law of nature. But if in any point it departs from the law of nature, it is no longer a law but a perversion of law.

But it must be noted that something may be derived from the natural law in two ways: first, as a conclusion from principles; secondly, by way of a determination of certain common notions. The first way is like to that by which, in the sciences, demonstrated conclusions are drawn from the principles; while the second is likened to that whereby, in the arts, common forms are

determined to some particular. Thus, the craftsman needs to determine the common form of a house to the shape of this or that particular house. Some things are therefore derived from the common principles of the natural law by way of conclusions: e.g., that one must not kill may be derived as a conclusion from the principle that one should do harm to no man; while some are derived therefrom by way of determination: e.g., the law of nature has it that the evil-doer should be punished, but that he be punished in this or that way is a determination of the law of nature.

Accordingly, both modes of derivation are found in the human law. But those things which are derived in the first way are contained in human law, not as emanating therefrom exclusively but as having some force from the natural law also. But those things which are derived in the second way have no other force than that of human law."

Reply Obj. 1. The Philosopher is speaking of those enactments which are by way of determination or specification of the precepts of the natural law.

Reply Obj. 2. This argument holds for those things that are derived from the natural law by way of conclusion.

Reply Obj. 3. The common principles of the natural law cannot be applied to all men in the same way because of the great variety of human affairs; andhence arises the diversity of positive laws among various people.

Reply Obj. 4. These words of the Jurist are to be understood as referring to the decisions of rulers in determining particular points of the natural law; and to these determinations the judgment of expert and prudent men is related as to its principles, in so far, namely, as they see at once what is the best thing to decide. Hence the Philosopher says that, in such matters, "we ought to pay as much attention to the undemonstrated sayings and opinions of persons who surpass us in experience, age and prudence, as to their demonstrations."

Third Article

WHETHER ISIDORE'S DESCRIPTION OF THE QUALITY OF POSITIVE LAW IS APPROPRIATE?

We proceed thus to the Third Article:--

Objection 1. It would seem that Isidore's description of the quality of positive law is not appropriate, when he says: "Law shall be virtuous, just, possible to nature, according to the custom of the country, suitable to place and time, necessary, useful, clearly expressed, lest by its obscurity it lead to misunderstanding; framed for no private benefit, but for the common good." For he had previously expressed the quality of law in three conditions, saying that "law is anything founded on reason, provided that it foster religion, be helpful to discipline, and further the common welfare." Therefore it was needless to add any further conditions to these.

Obj. 2. Further, Justice is included in virtue [honestas], as Tully says. Therefore, after saying virtuous, it was superfluous to add just.

Obj. 3. Further, written law is co-divided against custom, according to Isidore. Therefore it should not be stated in the definition of law that it is according to the custom of the country.

Obj. 4. Further, a thing may be necessary in two ways. It may be necessary absolutely, because it cannot be otherwise; and that which is necessary in this way is not subject to human judgment. Hence human law is not concerned with necessity of this kind. Again, a thing may be necessary for an end, and this necessity is the same as usefulness. Therefore it is superfluous to say both necessary and useful.

On the contrary stand the authority of Isidore.

"I answer that", Whenever a thing is for an end, its form must be determined proportionately to that end; as the form of a saw is such as to be suitable for cutting. Again, everything that is ruled and measured must have a form proportioned to its rule and measure. Now both these conditions are verified in human law, since it is both something ordained to an end, and it is also a rule or measure ruled or measured by a higher measure. Now this higher measure is twofold, viz., the divine law and the natural law, as was explained above. But the end of human law is to be useful to man, as the Jurist states. Therefore Isidore, in determining the nature of law, first lays down three conditions; viz., that it foster religion, inasmuch as it is proportioned to the divine law; that it be helpful to discipline, inasmuch as it is proportioned to the natural law; and that it further the common welfare, inasmuch as it is proportioned to the utility of mankind.

All the other conditions mentioned by him are reduced to these three. For it is called virtuous because it fosters religion. And when he goes on to say that it should be "just, possible to nature, according to the customs of the country, adapted to place and time,"he implies that it should be suitable to discipline.For human discipline depends, first, on the order of reason, to which he refers by saying just. Secondly, it depends on the ability of the agent, because discipline should be adapted to each one according to his ability, taking also into account the ability of nature (for the same burdens should not be laid on children as on adults); and it should be according to human customs, since man cannot live alone in society, paying no heed to others. Thirdly, it depends on certain circumstances, in respect of which he says, adapted to place and time. The remaining words, necessary, useful, etc., mean that law should further the common welfare; so that necessity refers to the removal of evils, usefulness, to the attainment of good, clearness of expression, to the need of preventing any harm ensuing from the law itself. And since, as was stated above, law is ordained to the common good, this is expressed in the last part of the description.

This suffices for the Replies to the Objections.

Fourth Article
WHETHER ISIDORE'S DIVISION OF HUMAN LAWS IS APPROPRIATE?

We proceed thus to the Fourth Article:--

Objection 1. It would seem that Isidore divided human statutes or human law wrongly. For under this law he includes the law of nations, so called, because, as he says, nearly all nations use it. But, as he says, "natural law is that which is common to all nations." Therefore the law of nations is not contained under positive human law but rather under natural law.

Obj. 2. Further, those laws which have the same force seem to differ, not formally, but only materially. But statutes, decrees of the commonalty, senatorial decrees, and the like which he mentions, all have the same force. Therefore they do not differ, except materially. But art takes no notice of such a distinction, since it may go on to infinity. Therefore this division of human laws is not appropriate.

Obj. 3. Further, just as, in the state, there are princes, priests and soldiers, so there are other human offices. Therefore it seems that, as this division includes military law, and public law, referring to priests and magistrates, so also it should include other laws pertaining to other offices of the state.

Obj. 4. Further, those things that are accidental should be passed over. But it is accidental to law that it be framed by this or that man. Therefore it is unreasonable to divide laws according to the names of lawgivers, so that one be called the Cornelian law, another the Falcidian law, etc.

On the contrary, The authority of Isidore suffices.

"I answer that," A thing can be divided essentially, in respect of something contained in the notion of that thing. Thus a soul, either rational or irrational, is contained in the notion of animal; and therefore animal is divided properly and essentially in respect of its being rational or irrational, but not in the point of its being white or black, which are entirely outside the notion of animal. Now, in the notion of human law, many things are contained, in respect of any of which human law can be divided properly and essentially. For, in the first place, it belongs to the notion of human law to be derived from the law of nature, as was explained above. In this respect positive law is divided into the law of nations and civil law, according to the two ways in which something may be derived from the law of nature, as was stated above. For to the law of nations belong those things which are derived from the law of nature as conclusions from principles, e.g., just buyings and sellings, and the like, without which men cannot live together; and this belongs to the law of nature, since man is by nature a social animal, as is proved in Politics i. But those things which are derived from the law of nature by way of particular determination belong to the civil law, according as each state decides on what is best for itself.

Secondly, it belongs to the notion of human law to be ordained to the common good of the state. In this respect, human law may be divided according to the different kinds of men who work in a special way for the common good: e.g., priests, by praying to God for the people; princes, by governing the people; soldiers, by fighting for the safety of the people. Therefore certain special kinds of law are adapted to these men.

Thirdly, it belongs to the notion of human law to be framed by the one who governs the community of the state, as was shown above. In this respect, there are various human laws according to the various forms of government. Of these, according to the Philosopher, one is monarchy, i.e., when the state is governed by one; and then we have Royal Ordinances. Another form is aristocracy, i.e., government by the best men or men of highest rank; and then we have the Authoritative legal opinions [Responsa Prudentum] and Decrees of the Senate [Senatus consulta]. Another form is oligarchy, i.e., government by a few rich and powerful men; and then we have Praetorian, also called Honorary, law. Another form of government is that of the people, which is called democrary, and there we have Decrees of the commonalty, [Plebiscita]. There is also tyrannical government, which is altogether corrupt, which, therefore, has no corresponding law. Finally, there is a form of government made up of all these, and which is the best; and in this respect we have law sanctioned by the Lords and Commons, as is stated by Isidore.

Fourthly, it belongs to the notion of human law to direct human actions. In this respect, according to the various matters of which the law treats, there are various kinds of laws, which are sometimes named after their authors. Thus we have the Lex Julia about adultery the Lex Cornelia concerning assassins, and so on, differentiated in this way, not because of the authors, but because of the matters to which they refer.

Reply Obj. 1. The law of nations is indeed, in some way, natural to man, in so far as he is a reasonable being, because it is derived from the natural law by way of a conclusion that is not very remote from its principles. Therefore men easily agreed thereto. Nevertheless, it is distinct from the natural law, especially from that natural law which is common to all animals.

The Replies to the other Objections are evident from what has been said.

Question XCIV
ON THE POWER OF HUMAN LAW
(In Six Articles)

We must now consider the power of human law. Under this head there are six points of inquiry: (1) Whether human law should be framed in a common way? (2) Whether human law should repress

all vices? (3) Whether human law is competent to direct the acts of all the virtues? (4) Whether it binds man in conscience? (5) Whether all men are subject to human law? (6) Whether those who are under the law may act outside the letter of the law?

First Article

WHETHER HUMAN LAW SHOULD BE FRAMED IN A COMMON WAY RATHER THAN IN THE PARTICULAR?

We proceed thus to the First Article:--

Objection 1. It would seem that human law should be framed, not in a common way, but rather in the particular. For the Philosopher says that "the legal just...includes all particular acts of legislation...and all those matters which are the subject of decrees," which are also individual matters, since decrees are framed about individual actions. Therefore law is framed not only in a common way, but also in the particular.

Obj. 2. Further, law is the director of human acts, as was stated above. But human acts are about individual matters. Therefore human laws should be framed, not in a common way, but rather in the particular.

Obj. 3 Further, law is a rule and measure of human acts, as was stated above. But a measure should be most certain, as is stated in Metaph. x. Since, therefore, in human acts no universal proposition can be so certain as not to fail in some individual cases, it seems that laws should be framed, not in a common way, but in the particular.

On the contrary, the Jurist says that "laws should be made to suit the majority of instances; and they are not framed according to what may possibly happen in an individual case."

"I answer that," Whatever is for an end should be proportioned to that end. Now the end of law is the common good, because, as Isidore says, "law should be framed, not for any private benefit, but for the common good of all the citizens." Hence human laws should be proportioned to the common good. Now the common good comprises many things. Therefore law should take account of many things, as to persons, as to matters, and as to times. For the community of the state is composed of many persons, and its good is procured by many actions; nor is it established to endure for only a short time, but to last for all time by the citizens succeeding one another, as Augustine says.

Reply Obj. 1. The Philosopher divides the legal just, i.e., positive law, into three parts. For some things are laid down absolutely in a common way, and these are the common laws. Of these he says that "the legal is that which originally was a matter of indifference, but which, when enacted, is so no longer,:" e.g., the fixing of the ransom of a captive.--Some things affect the community in one respect, and individuals in another. These are called privileges, i.e., private laws, as it were, because

they regard private persons, although their power extends to many matters; and in regard to these, he adds, "and further, all particular acts of legislation."--Other matters are legal, not through being laws, but through being applications of common laws to particular cases. Such are decrees which have the force of law; and in regard to these he adds,"all matters subject to decrees."

Reply Obj. 2. A principle of direction should be applicable to many. Hence the Philosopher says that all things belonging to one genus are measured by one, which is the principle in that genus. For if there were as many rules or measures as there are things measured or ruled, they would cease to be of use, since their use consists in being applicable to many things. Hence law would be of no use, if it did not extend further than to one single act. For the decrees of prudent men are made for the purpose of directing individual actions, whereas law is a common precept, as was stated above.

Reply Obj. 3. "We must not seek the same degree of certainty in all things." Consequently, in contingent matters, such as natural and human things, it is enough for a thing to be certain, as being true in the greater number of instances, though at times, and less frequently, it fail.

Second Article
WHETHER IT BELONGS TO HUMAN LAW TO REPRESS ALL VICES?

We proceed thus to the Second Article:--

Objection 1. It would seem that it belongs to human law to repress all vices. For Isidore says that "laws were made in order that, in fear thereof, man's audacity might be held in check." But it would not be held in check sufficiently unless all evils were repressed by law. Therefore human law should repress all evils.

Obj. 2. Further, the intention of the lawgiver is to make the citizens virtuous. But a man cannot be virtuous unless he forbear from all kinds of vice. Therefore it belongs to human law to repress all vices.

Obj. 3. Further, human law is derived from the natural law, as was stated above. But all vices are contrary to the law of nature. Therefore human law should repress all vices.

On the contrary, we read in De Libero Arbitrio, (Augustine) i; "It seems to me that the law which is written for the governing of the people rightly permits these things, and that divine providence punishes them." But divine providence punishes nothing but vices. Therefore human law rightly allows some vices, by not repressing them.

"I answer that," As was stated above, law is framed as a rule or measure of human acts. Now a measure should be homogeneous with that which it measures, as is stated in Metaph. x., since different things are measured by different measures. Therefore laws imposed on men should also be in keeping with their condition, for, as Isidore says, law should be "possible both according to nature, and according to the customs of the country." Now the ability or facility of action is due to an interior habit or disposition, since the same thing is not possible to one who has not a virtuous habit, as is possible to one who has. Thus the same thing is not possible to a child as to a full-grown man, and for which reason the law for children is not the same as for adults, since many things are permitted to children, which in an adult are punished by law or at any rate are open to blame. In like manner, many things are permissible to men not perfect in virtue, which would be intolerable in a virtuous man.

Now human law is framed for the multitude of human beings, the majority of whom are not perfect in virtue. Therefore human laws do not forbid all vices, from which the virtuous abstain, but only the more grievous vices, from which it is possible for the majority to abstain; and chiefly those that are injurious to others, without the prohibition of which human society could not be maintained. Thus human law prohibits murder, theft, and the like.

Reply Obj. 1. Audacity seems to refer to the assailing of others. Consequently, it belongs to those sins chiefly whereby one's neighbor is injured. These sins are forbidden by human law, as was stated.

Reply Obj. 2. The purpose of human law is to lead men to virtue, not suddenly, but gradually. Therefore it does not lay upon the multitude of imperfect men the burdens of those who are already virtuous, viz,, that they should abstain from all evil. Otherwise these imperfect ones, being unable to bear such precepts, would break out into yet greater evils. As it is written (Prov. xxx. 33): "He that violently bloweth his nose, bringeth out blood;" again (Matt. ix. 17): if "new wine," i.e. precepts of a perfect life, is "put into old bottles," i.e., into imperfect men, "the bottles break, and the wine runneth out", i.e., the precepts are despised, and those men, from contempt, break out into evils worse still.

Reply Obj. 3. The natural law is a participation in us of the eternal law, while human law falls short of the eternal law. For Augustine says: "The law which is framed for the government of states allows and leaves unpunished many things that are punished by divine providence. Nor, if this law does not attempt to do everything, is this a reason why it should be blamed for what it does." Therefore, human law likewise does not prohibit everything that is forbidden by the natural law.

Third Article
WHETHER HUMAN LAW PRESCRIBES THE ACT OF ALL THE VIRTUES?

We proceed thus to the Third Article:

Objection 1. It would seem that human law does not prescribe the acts of all the virtues. For vicious acts are contrary to acts of virtue. But human law does not prohibit all vices, as was stated above. Therevore neither does it prescribe all acts of virtue.

Obj. 2. Further, a virtuous act proceeds from a virtue. But virtue is the end of law, so that whatever is from a virtue cannot come under a precept of law. Therefore human law does not prescribe all acts of virtue.

Obj. 3. Further, law is ordained to the common good, as was stated above. But some acts of virtue are ordained, not to the common good, but to private good. Therefore law does not prescribe all acts of virtue.

On the contrary, The Philosopher says that law "prescribes the performance of the acts of a brave man,...and the acts of the temperate man,...and the acts of the meek man; and in like manner as regards the other virtues and vices, prescribing the former, forbidding the latter."

"I answer that", The species of virtues are distinguished by their objects, as was explained above. Now all the objects of the virtues can be referred either to the private good of an individual, or to the common good of the multitude. Thus, matters of fortitude may be achieved either for the safety of the state, or for upholding the rights of a friend; and in like manner with the other virtues. But law, as was stated above, is ordained to the common good. Therefore, there is no virtue whose acts cannot be prescribed by the law. Nevertheless, human law does not prescribe concerning all the acts of every virtue, but only in regard to those that are ordainable to the common good,--either immediately, as when certain things are done directly for the common good,--or mediately, as when a lawgiver prescribes certain things pertaining to good order, whereby the citizens are directed in the upholding of the common good of justice and peace.

Reply Obj. 1. Human law does not forbid all vicious acts, by the obligation of a precept, as neither does it prescribe all acts of virtue. But it forbids certain acts of vice, just as it prescribes some acts of each virtue.

Reply Obj. 2. An act is said to be an act of virtue in two ways. First, from the fact that a man does something virtuous; and thus the act of justice is to do what is right, and an act of fortitude is to do brave things. In this way law prescribes certain acts of virtue.--Secondly an act of virtue is so called

when a man does a virtuous thing in a way in which a virtuous man does it. Such an act always proceeds from virtue. Nor does it come under a precept of law, but is the end at which every lawgiver aims.

Reply Obj. 3. There is no virtue whose act is not ordainable to the common good, as was stated above, either mediately or immediately.

Fourth Article
WHETHER HUMAN LAW BINDS A MAN IN CONSCIENCE?

We proceed thus to the Fourth Article:

Objection 1. It would seem that human law does not bind a man in conscience. For an inferior power cannot impose its law on the judgment of a higher power. But the power of man, which frames human law, is beneath the divine power. Therefore human law cannot impose its precept on a divine judgment, such as is the judgment of conscience.

Obj. 2. Further, the judgment of conscience depends chiefly on the commandments of God. But sometimes God's commandments are made void by human laws, according to Matt. xv. 6: "You have made void the commandment of God for your tradition." Therefore human law does not bind a man in conscience.

Obj. 3. Further, human laws often bring loss of character and injury on man, according to Isa. x. 1, 2: "Woe to them that make wicked laws, and when they write, write injustice; to oppress the poor in judgment, and do violence to the cause of the humble of My people." But it is lawful for anyone to avoid oppression and violence. Therefore human laws do not bind man in conscience.

On the contrary, It is written (1 Pet. ii 19): "This is thanksworthy, if for conscience...a man endure sorrows, suffering wrongfully."

"I answer that", Laws framed by man are either just or unjust. If they be just, they have the power of binding in conscience from the eternal law whence they are derived, according to Prov. viii. 15: "By Me kings reign, and lawgivers decree just things." Now laws are said to be just, both from the end (when, namely, they are ordained to the common good), from their author (that is to say, when the law that is made does not exceed the power of the lawgiver), and from their form (when, namely, burdens are laid on the subjects according to an equality of proportion and with a view to the common good). For, since one man is a part of the community, each man, in all that he is and has, belongs to the community; just as a part, in all that it is, belongs to the whole. So, too, nature inflicts a loss on the part in order to save the whole; so that for this reason such laws as these, which impose proportionate burdens, are just and binding in conscience, and are legal laws.

On the other hand, laws may be unjust in two ways: first, by being contrary to human good, through being opposed to the things mentioned above:--either in respect of the end, as when an authority imposes on his subjects burdensome laws, conducive, not to the common good, but rather to his own cupidity or vainglory; or in respect of the author, as when a man makes a law that goes beyond the power committed to him; or in respect of the form, as when burdens are imposed unequally on the community, although with a view to the common good. Such are acts of violence rather than laws, because, as Augustine ways, "a law that is not just seems to be no law at all." Therefore, such laws do not bind in conscience, except perhaps in order to avoid scandal or disturbance, for which cause a man should even yield his right, according to Matt. v. 40, 41: "If a man... take away thy coat, let go thy cloak also unto him; and whosoever will force thee one mile, go with him other two."

Secondly, laws may be unjust through being opposed to the divine good. Such are the laws of tyrants inducing to idolatry, or to anything else contrary to the divine law. Laws of this kind must in no way be observed, because, as is stated in Acts v. 29,"we ought to obey God rather than men."

Reply Obj. 1. As the Apostle says (Rom. xiii. 1,2), all human power is from God..."therefore he that resisteth the power," in matters that are within its scope, "resisteth the ordinance of God:" so that he becomes guilty in conscience.

Reply Obj. 2. This argument is true of laws that are contrary to the commandments of God, which is beyond the scope of [human] power. Therefore in such matters human law should not be obeyed.

Reply Obj. 3. This argument is true of a law that inflicts an unjust burden on its subjects. Furthermore, the power that man holds from God does not extend to this. Hence neither in such matters is man bound to obey the law, provided he avoid giving scandal or inflicting a more grievous injury.

Fifth Article
WHETHER ALL ARE SUBJECT TO LAW?

We proceed thus to the Fifth Article:

Objection 1. It would seem that not all are subject to the law. For those alone are subject to a law for whom a law is made. But the Apostle says (1 Tim. i. 9): "The law is not made for the just man." Therefore the just are not subject to human law.

Obj. 2. Further, Pope Urban says (this is also found in the Decretals): "He that is guided by a private law need not for any reason be bound by the public law". Now all spiritual men are led by the private law of the Holy Ghost, for they are the sons of God, of whom it is said (Rom. viii. 14): "Whosoever are led by the Spirit of God, they are the sons of God." Therefore not all men are subject to human law.

Obj. 3. Further, the Jurist says that "the sovereign is exempt from the laws." But he that is exempt from the law is not bound thereby. Therefore not all are subject to law.

On the contrary, The Apostle says, (Rom. xiii.1): "Let every soul be subject to the higher powers." But subjection to a power seems to imply subjection to the laws framed by that power. Therefore all men should be subject to law.

"I answer that," As was stated above, the notion of law contains two things: first, that it is a rule of human acts; secondly, that it has coercive power. Therefore a man may be subject to law in two ways. First, as the regulated is subject to the regulator; and whoever is subject to a power in this way is subject to the law framed by that power. But it may happen in two ways that one is not subject to a power. In one way, by being altogether free from its authority. And so it happens that the subjects of one city or kingdom are not bound by the laws of the sovereign of another city or kingdom, since they are not subject to his authority. In another way, by being under a yet higher law. Thus the subject of a proconsul should be ruled by his command, but not in those matters in which the subject receives his orders from the emperor; for in these matters he is not bound by the mandate of the lower authority, since he is directed by that of ahigher. In this way, one who is subject absolutely to a law may not be subject thereto in certain matters, in respect of which he is ruled by a higher law.

Secondly, a man is said to be subject to a law as the coerced is subject to the coercer. In this way the virtuous and righteous are not subject to law, but only the wicked. For coercion and violence are contrary to the will; but the will of the good is in harmony with law, whereas the will of the wicked is discordant from it. Therefore in this sense the good are not subject to law, but only the wicked.

Reply Obj. 1. This argument is true of subjection by way of coercion, for, in this way, "the law is not made for the just men," because "they are a law to themselves," since they "show the work of the law written in their hears," as the Apostle says (Rom ii. 14, 15). Consequently law does not coerce them in the way that it does the wicked.

Reply Obj. 2. The law of the Holy Ghost is above all law framed by man, and therefore spiritual men, in so far as they are led by the law of the Holy Ghost, are not subject to the law in those matters that are inconsistent with the guidance of the Holy Ghost. Nevertheless, it is an effect of the guidance of the Holy Ghost that spiritual men are subject to human laws, according to 1 Pet. ii. 13: "Be ye subject...to every human creature for God's sake."

Reply Obj. 3. The sovereign is said to be "exempt from law", as to its coercive power, since, properly speaking, no man is coerced by

himself, and law has no coercive power save from the authority of the sovereign. Thus is the sovereign said to be exempt from the law because none is competent to pass sentence on him, if he acts against the law. Therefore on Ps. 1. 6 ("To Thee only have I sinned) the Gloss says that "there is no man who can judge the deeds of a king." But as to the directive force of law, the sovereign is subject to the law by his own will, according to the statement that "whatever law a man makes for another, he should keep himself." And the authority of a wise man says: "Obey the law that thou makest thyself." Moreover the Lord reproaches those who "say and do not;" and who "bind heavy burdens and lay them on men's shoulders, but with a finger of their own they will not move them (Matt. xxiii.3,4). Hence, in the judgment of God, the sovereign is not exempt from the law, as to its directive force; but he should fulfill it voluntarily, and not of constraint. Again, the sovereign is above the law, in so far as, when it is expedient, he can change the law, and rule within it according to time and place.

Sixth Article

WHETHER HE WHO IS UNDER A LAW MAY ACT OUTSIDE THE LETTER OF THE LAW?

We proceed thus to the Sixth Article:--

Objection 1. It seems that he who is subject to a law may not act outside the letter of the law. For Augustine says: "Although men judge about temporal laws when they make them, yet when once they are made they must pass judgment, not on them, but according to them." But if anyone disregard the letter of the law, saying that he observes the intention of the lawgiver, he seems to pass judgment on the law. Therefore it is not right for one who is under a law to disregard the letter of the law, in order to observe the intention of the lawgiver.

Obj. 2. Further, he alone is competent to interpret the law who can make the law. But those who are subject to the law cannot make the law. Therefore they have no right to interpret the intention of the lawgiver, but should always act according to the letter of the law.

Obj. 3. Further, every wise man knows how to explain his intention by words. But those who framed the laws should be reckoned wise, for Wisdom says (Prov. viii. 15): "By Me kings reign, and lawgivers decree just things." Therefore we should not judge of the intention of the lawgiver otherwise than by the words of the law.

On the contrary, Hilary says: "The meaning of what is said is according to the motive for saying it; because things are not subject to speech, but speech to things." Therefore we should take account of the motive of the lawgiver, rather than of his very words.

"I answer that," As was stated above, every law is directed to the common welfare of men, and derives the force and nature of law accordingly; but in so far as it fails of this common welfare, it is

without binding power. Hence the Jurist says: "By no reason of law, or favor of equity, is it allowable for us to interpret harshly, and render burdensome, those useful measures which have been enacted for the welfare of man." Now it often happens that the observance of some point of law conduces to the common welfare in the majority of instances, and yet, in some cases, is very injurious. Since, then, the lawgiver cannot have in view every single case, he shapes the law according to what happens most frequently, by directing his attention to the common good. Hence, if a case arise wherein the observance of that law would be injurious to the general welfare, it should not be ovserved. For instance, suppose that in a besieged city it be an established law that the gates of the city are to be kept closed, this is good for public welfare as a general rule; but if it were to happen that the enemy are in pursuit of certain citizens, who are defenders of the city, it would be a great calamity for the city if the gates were not opened to them; and so in that case the gates ought to be opened, contrary to the letter of the law, in order to maintain the common welfare, which the lawgiver had in view.

Nevertheless, it must be noted that if the observance of the law according to the letter does not involve any sudden risk, needing instant remedy, it is not permissible for everyone to expound what is useful and what is not useful to the state; rather those alone can do this who are in authority, and who, in the event of such cases, have the power to dispense from the laws. If, however, the peril be so sudden as not to allow the delay involved in referring the matter to authority, the necessity itself carries with it a dispensation, since necessity knows no law.

Reply Obj. 1. He who in a case of necessity acts outside the letter of the law does not judge of the law; but he judges of a particular case in which he sees that the letter of the law is not to be observed.

Reply Obj. 2. He who follows the intention of the lawgiver does not interpret the law absolutely; but he interprets the law in a case in which it is evident, by reason of the manifest harm, that the lawgiver intended otherwise. For if it be a matter of doubt, he must either act according to the letter of the law, or consult those in power.

Reply Obj. 3. No man is so wise as to be able to consider every single case; and therefore he is not able sufficiently to express in words all those things that are suitable for the end he has in view. And even if a lawgiver were able to take all the cases into consideration, he ought not to mention them all, in order to avoid confusion; but he should frame the law according to that which is of most common occurence.

Question XCVII
ON CHANGE IN LAWS
(In Four Articles)

We must now consider change in laws, under which head there are four points of inquiry: (1) Whether human law is changeable? (2) Whether it should be always changed, whenever anything better occurs? (3) Whether it is abolished by custom, and whether custom obtains the force of law? (4) Whether the application of human law should be changed by the dispensation of those in authority?

First Article
WHETHER HUMAN LAW SHOULD BE CHANGED IN ANY WAY?

We proceed thus to the First Article:--

Objection 1. It would seem that human law should not be changed in any way at all. For human law is derived from the natural law, as was stated above. But the natural law endures unchangeably. Therefore human law should also remain without any change.

Obj. 2. Further, as the Philosopher says, a measure should be absolutely stable. But human law is the measure of human acts, as was stated above. Therefore it should remain without change.

Obj. 3. Further, it is of the nature of law to be just and right, as was stated above. But that which is right once is right always. Therefore that which is law once should always be law.

On the contrary, Augustine says: "A temporal law, however just, may be justly changed in the course of time."

"I answer that," As was stated above, human law is a dictate of reason, whereby human acts are directed. Thus there may be two causes for the just change of human law: one on the part of reason, the other on the part of the men whose acts are regulated by law. The cause on the part of reason is that it seem natural to human reason to advance gradually from the imperfect to perfect. Hence, in the speculative sciences, we see that the teaching of the early philosophers was imperfect, and that it was afterwards perfected by those who succeeded them. So also in practical matters, for those who first endeavored to discover something useful for the human community, not being able by themselves to take everything into consideration, set up certain institutions which were deficient in many ways; and these were changed by subsequent lawgivers who made institutions that might prove less frequently deficient in relation to the common welfare.

On the part of man, whose acts are regulated by law, the law can be rightfully changed because of changed condition among men, to whom different things are expedient according to the difference of their

conditions. An example is proposed by Augustine: If a people have a sense of moderation and responsibility, and are most careful guardians of the common welfare, it is right to enact a law allowing such a people to choose their own magistrates for the government of the commonwealth. But if, as time goes on, the same people become so corrupt as to sell their votes, and entrust the government to scoundrels and criminals, then the right of appointing their public officials is rightly forfeit to such a people, and the choice devolves to a few good men.

Reply Obj. 1. The natural law is a participation of the eternal law, as was stated above, and therefore endures without change, owing to the unchangeableness and perfection of the divine reason, the author of nature. But the reason of man is changeable and imperfect, and so his law is subject to change. Moreover, the natural law contains certain universal precepts which are everlasting; whereas human law contains certain particular precepts, according to various circumstances.

Reply Obj. 2. A measure should be as enduring as possible. But nothing can be absolutely unchangeable in things that are subject to change. And therefore human law cannot be altogether unchangeable.

Reply Obj. 3. In corporal things, right is predicated absolutely, and therefore, as far as it itself is concerned, always remains right. But rectitude is predicated of law with reference to the common welfare, to which one and the same thing is not always adapted, as was stated above; and hence rectitude of this kind is subject to change.

Second Article
WHETHER HUMAN LAW SHOULD ALWAYS BE CHANGED WHENEVER SOMETHING BETTER OCCURS?

We proceed thus to the Second Article:--

Objection 1. It would seem that human law should be changed whenever something better occurs. For human laws are divised by human reason, like the other arts. But in the other arts, the tenets of former times give place to others, if something better occurs. Therefore the same should apply to human laws.

Obj. 2. Further, by taking note of the past we can provide for the future. Now unless human laws had been changed when it was found possible to improve them, considerable inconvenience would have ensued, because the laws of old were crude in many points. Therefore it seems that laws should be changed whenever anything better occurs to be enacted.

Obj. 3. Further, human laws are enacted about single acts of man. But we cannot acquire perfect knowledge in singular matters, except by experience, which requires time, as is stated in Ethics ii.

Therefore it seems that as time goes on it is possible for something better to occur for legislation.

On the contrary, It is stated in the Decretals: It is absurd, and a detestable shame, that we should suffer those traditions to be changed which we have received from the fathers of old.

I answer that, As was stated above, human law is rightly changed in so far as such change is conducive to the common welfare. But, to a certain extent, the mere change of law is of itself prejudicial to the common welfare, because custom avails much for the observance of laws, seeing that what is done contrary to general custom, even in slight matters, is looked upon as a rather serious offense. Consequently, when a law is changed, the binding power of law is diminished, in so far as custom is abolished. Therefore human law should never be changed, unless, in some way or other, the common welfare be compensated according to the extent of the harm done in this respect. Such compensation may arise either from some very great and very evident benefit conferred by the new enactment; or from the extreme urgency of the case, due to the fact that either the existing law is clearly unjust, or its observance extremely harmful. Therefore the Jurist says that in establishing new laws, there should be evidence of the benefit to be derived, before departing from a law which has long been considered just.

Reply Obj. 1. Rules of art derive their force from reason alone, and therefore whenever something better occurs, the rule followed hitherto should be changed. But laws derive the greatest force from custom, as the Philosopher states, and consequently they should not be easily changed.

Reply Obj. 2. This argument proves that laws ought to be changed, not in view of any improvement, but for the sake of a great benefit, or in a case of great urgency, as was stated above. This answer applies also to the Third Objection.

Third Article
WHETHER CUSTOM CAN OBTAIN THE FORCE OF LAW?

We proceed thus to the Third Article:--

Objection 1. It would seem that custom cannot obtain the force of law, nor abolish a law. For human law is derived from the natural law and from the divine law, as was stated above. But human custom cannot change either the law of nature or the divine law. Therefore neither can it change human law.

Obj. 2. Further, many evils cannot make one good. But he who first acted against the law did evil. Therefore by multiplying such acts, nothing good is the result. Now a law is something good, since it is a rule of human acts. Therefore law is not abolished by custom, so that custom itself should obtain the force of law.

Obj. 3. Further, the framing of laws belongs to those public men whose business it is to govern the community; and that is why private individuals cannot make laws. But custom grows by the acts of private individuals. Therefore custom cannot obtain the force of law, so as to abolish the law.

On the contrary, Augustine says: The customs of God's people and the institutions of our ancestors are to be considered as laws. And those who throw contempt on the customs of the Church ought to be punished as those who disobey the law of God.

I answer that, All law proceeds from the reason and will of the lawgiver, -- the divine and natural laws from the reasonable will of God, the human law from the will of man as regulated by reason. Now just as the human reason and will, in practical matters, may be made manifest by speech, so they may be made known by deeds; for evidently a man chooses as good that which he carries into execution. But it is evident that, by human speech, law can be both changed and set forth, in so far as it manifests the interior movement and thought of human reason. Therefore by actions also, especially if they be repeated, so as to make a custom, law can be changed and set forth; and furthermore something can be established which obtains the force of law, in so far as, by repeated external actions, the inward movement of the will and the conceptions of the reason are most revealingly declared. For when a thing is done again and again, it seems to proceed from a deliberate judgment of reason. Accordingly, custom has the force of a law, abolishes law, and is the interpreter of law.

Reply Obj. 1. The natural and divine laws proceed from the divine will, as was stated above. Therefore they cannot be changed by a custom proceeding from the will of man, but only by divine authority. Hence it is that no custom can prevail over the divine or natural laws; for Isadore says: Let custom yield to authority, and let evil customs be eradicated by law and reason.

Reply Obj. 2. As was stated above, human laws fail in some cases. Hence it is possible sometimes to act outside the law, namely, in a case where the law fails; and yet the act will not be evil. And when such cases are multiplied, by reason of some change in man, then custom shows that the law is no longer useful; just as it might be declared by the verbal promulgation of a law to the contrary. If, however, the same reason remains, for which the law was hitherto useful, then it is not the custom that prevails against the law, but the law that overcomes the custom; unless perhaps the sole reason why the law seems useless is that it is not possible according to the custom of the country, which has been stated to be one of the conditions of law. For it is not easy to set aside the custom of a whole people.

Reply Obj. 3. The people among whom a custom is introduced may be of two conditions. For if they are free, and able to make their own laws, the consent of the whole people expressed by

a custom counts far more in favor of a particular observance than does the authority of the sovereign, who has not the power to frame laws, except as representing the people. Therefore, although each individual cannot make laws, yet the whole people can. If, however, the people have not the free power to make their own laws, or to abolish a law made by a higher authority, nevertheless, among such a people a prevailing custom obtains the force of law in so far as it is tolerated by those to whom it belongs to make laws for that people; because, by the very fact that they tolerate it, they seem to approve of that which is introduced by custom.

Fourth Article
WHETHER THE RULERS OF THE PEOPLE CAN DISPENSE FROM HUMAN LAWS?

We proceed thus to the Fourth Article:--

Objection 1. It would seem that the rulers of the people cannot dispense from human laws. For law is established for the common welfare, as Isidore says. But the common good should not be set aside for the private convenience of an individual, because, as the Philosopher says, the good of the nation is more godlike than the good of one man. Therefore it seems that a man should not be dispensed from acting in compliance with the common law.

Obj. 2. Further, those who are placed over others are commanded as follows (Deut. i. 17): You shall hear the little as well as the great; neither shall you respect any man's person, because it is the judgment of God. But to allow one man to do that which is equally forbidden to all seems to be respect of persons. Therefore the rulers of a community cannot grant such dispensations, since this is against a precept of the divine law.

Obj. 3. Further, human law, in order to be just, should accord with the natural and divine laws, or else it would not foster religion, nor be helpful to discipline, which is requisite to the nature of law, as is laid down by Isidore. But no man can dispense from the divine and natural laws. Neither, therefore, can he dispense from human law.

On the contrary, The Apostle says (I Cor. ix. 17): A dispensation is committed to me.

I answer that, Dispensation, properly speaking, denotes a measuring out to individuals of some common goods. Thus the head of a household is called a dispenser, because to each member of the household he distributes work and the necessaries of life in due weight and measure. Accordingly, in every community a man is said to dispense, from the very fact that he directs how some common precept is to be fulfilled by each individual. Now it happens at times that a precept, which is conducive to the common weal as a general rule, is not good for a particular individual,

or in some particular case, either because it would hinder some greater good, or because it would be the occasion of some evil, as we have explained above. But it would be dangerous to leave this to the discretion of each individual, except perhaps by reason of an evident and sudden emergency, as was stated above. Consequently, he who is placed over a community is empowered to dispense from a human law that rests upon his authority, so that, when the law fails in its application to persons or circumstances, he may allow the precept of the law not to be observed. If, however, he grant this permission without any such reason, and of his mere will, he will be an unfaithful or an imprudent dispenser: unfaithful, if he has not the common good in view, imprudent, if he ignores the nature and function of granting dispensations. Hence Our Lord says (Luke xii. 42): Who, thinkest thou, is the faithful and wise dispenser whom his lord setteth over his family?

Reply Obj. 1. When a person is dispensed from observing the common law, this should not be done to the prejudice of, but with the intention of benefiting, the common good.

Reply Obj. 2. It is not respect of persons if unequal measures are served out to those who are themselves unequal. Therefore, when the condition of any person requires that he should reasonably receive special treatment, it is not respect of persons if he be the object of special favor.

Reply Obj. 3. Natural law, so far as it contains common prec pts which never fail, does not allow of dispensation. In the other precepts, however, which are as conclusions of the common precepts, man sometimes grants a dispensation: for instance, that a loan should not be paid back to the betrayer of his country, or something similar. But to the divine law each man stands as a private person to the public law to which he is subject. Therefore, just as none can dispense from public human law, except the man from whom the law derives its authority, or his delegate, so, in the precepts of the divine law, which are from God, none can dispense but God, or the man to whom He may give special power for that purpose.

NATURAL LAW[1]

By
Max Lerner

(The Mind and Faith of Justice Holmes, 1943, pp. 394-398

It is not enough for the knight of romance that you agree that his lady is a very nice girl--if you do not admit that she is the best that God ever made or will make, you must fight. There is in all men a demand for the superlative, so much so that the poor devil who has no other way of reaching it attains it by getting drunk. It seems to me that this demand is at the bottom of the philosopher's effort to prove that truth is absolute and of the jurist's search for criteria of universal validity which he collects under the head of natural law.

I used to say, when I was young, that truth was the majority vote of that nation that could lick all others. Certainly we may expect that the received opinion about the present war will depend a good deal upon which side wins (I hope with all my soul it will be mine), and I think that the statement was correct in so far as it implied that our test of truth is a reference to either a present or an imagined future majority in favor of our view. If, as I have suggested elsewhere, the truth may be defined as the system of my (intellectual) limitations, what gives it objectivity is the fact that I find my fellow man to a greater or less extent (never wholly) subject to the same Can't Helps. If I think that I am sitting at a table I find that the other persons present agree with me; so if I say that the sum of the angles of a triangle is equal to two right angles. If I am in a minority of one they send for a doctor or lock me up; and I am so far able to transcend the to me convincing testimony of my senses or my reason as to recognize that if I am alone probably something is wrong with my works.

Certitude is not the test of certainty. We have been cock-sure of many things that were not so. If I may quote myself again, property, friendship, and truth have a common root in time. One can not be wrenched from the rocky crevices into which one has grown for many years without feeling that one is attacked in one's lift. What we most love and revere generally is determined by early associations. I love granite rocks and barberry bushes, no doubt because with them were my earliest joys that reach back through the past eternity of my life. But while one's experience thus makes certain preferences dogmatic for oneself, recognition of how they came to be so leaves one able to see that other, poor souls, may be equally dogmatic about something else. And this again means scepticism.

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[1]First published in 32 HLR (1918) 40. Suggested by reading Francois Geny, Science et Technique en Droit Positif Prive, Paris, 1915.

Not that one's belief or love does not remain. Not that we would not fight and die for it if important--we all, whether we know it or not, are fighting to make the kind of a world that we should like--but that we have learned to recognize that others will fight and die to make a different world, with equal sincerity or belief. Deep-seated preferences can not be argued about--you can not argue a man into liking a glass of beer--and therefore, when differences are sufficiently far reaching, we try to kill the other man rather than let him have his way. But that is perfectly consistent with admitting that, so far as appears, his grounds are just as good as ours.

The jurists who believe in natural law seem to me to be in that naive state of mind that accepts what has been familiar and accepted by them and their neighbors as something that must be accepted by all men everywhere. No doubt it is true that, so far as we can see ahead, some arrangements and the rudiments of familiar institutions seem to be necessary elements in any society that may spring from our own and that would seem to us to be civilized--some form of permanent association between the sexes--some residue of property individually owned--some mode of binding oneself to specified future conduct--at the bottom of all, some protection for the person. But without speculating whether a group is imaginable in which all but the last of these might disappear and the last be subject to qualifications that most of us would abhor, the question remains as to the Ought of natural law.

It is true that beliefs and wishes have a transcendental basis in the sense that their foundation is arbitrary. You can not help entertaining and feeling them, and there is an end of it. As an arbitrary fact people wish to live, and we say with various degrees of certainty that they can do so only on certain conditions. To do it they must eat and drink. That necessity is absolute. It is a necessity of less degree but practically general that they should live in society. If they live in society, so far as we can see, there are further conditions. Reason working on experience does tell us, no doubt, that if our wish to live continues, we can do it only on those terms. But that seems to me the whole of the matter. I see no a priori duty to live with others and in that way, but simply a statement of what I must do if I wish to remain alive. If I do live with others they tell me that I must do and abstain from doing various things or they will put the screws on to me. I believe that they will, and being of the same mind as to their conduct I not only accept the rules but come in time to accept them with sympathy and emotional affirmation and begin to talk about duties and rights. But for legal purposes a right is only the hypostasis of a prophecy--the imagination of a substance supporting the fact that the public force will be brought to bear upon those who do things said to contravene it--just as we talk of the force of gravitation accounting for the conduct of bodies in space.

One phrase adds no more than the other to what we know without it. No doubt behind these legal rights is the fighting will of the subject to maintain them, and the spread of his emotions to the general rules by which they are maintained; but that does not seem to me the same thing as the supposed a priori discernment of a duty or the assertion of a pre-existing right. A dog will fight for his bone.

The most fundamental of the supposed pre-existing rights--the right to life--is sacrificed without a scruple not only in war, but whenever the interest of society, that is, of the predominant power in the community, is thought to demand it. Whether that interest is the interest of mankind in the long run no one can tell, and as, in any event, to those who do not think with Kant and Hegel it is only an interest, the sanctity disappears. I remember a very tender-hearted judge being of opinion that closing a hatch to stop a fire and the destruction of a cargo was justified even if it was known that doing so would stifle a man below. It is idle to illustrate further, because to those who agree with me I am uttering commonplaces and to those who disagree I am ignoring the necessary foundations of thought. The a priori men generally call the dissentients superficial. But I do agree with them in believing that one's attitude on these matters is closely connected with one's general attitude toward the universe. Proximately, as has been suggested, it is determined largely by early associations and temperament, coupled with the desire to have an absolute guide. Men to a great extent believe what they want to--although I see in that no basis for a philosophy that tells us what we should want to want.

Now when we come to our attitude toward the universe I do not see any rational ground for demanding the superlative--for being dissatisfied unless we are assured that our truth is cosmic truth, if there is such a thing--that the ultimates of a little creature on this little earth are the last word of the unimaginable whole. If a man sees no reason for believing that significance, consciousness and ideals are more than marks of the finite, that does not justify what has been familiar in French sceptics; getting upon a pedestal and professing to look with haughty scorn upon a world in ruins. The real conclusion is that the part can not swallow the whole--that our categories are not, or may not be adequate to formulate what we cannot know. If we believe that we come out of the universe, not it out of us, we must admit that we do not know what we are talking about when we speak of brute matter. We do know that a certain complex of energies can wag its tail and another can make syllogisms. There are among the powers of the unknown, and if, as may be, it has still greater powers that we cannot understand, as Fabre in his studies of instinct would have us believe, studies that gave Bergson one of the strongest strands for his philosophy and enabled Maeterlinck to make us fancy for a moment that we heard a clang from behind phenomena--if this

be true, why should we not be content? Why should we employ the energy that is furnished to us by the cosmos to defy it and shake our fist at the sky? It seems to me silly.

That the universe has in it more than we understand, that the private soldiers have not been told the plan of campaign, or even that there is one, rather than some vaster unthinkable to which every predicate is an impertinence, has no bearing upon our conduct. We still shall fight--all of us because we want to live, some, at least, because we want to realize our spontaneity and prove our powers, for the joy of it, and we may leave to the unknown the supposed final valuation of that which in any event has value to us. It is enough for us that the universe has produced us and has within it, as less than it, all that we believe and love. If we think of our existence not as that of a little god outside, but as that of a ganglion within, we have the infinite behind us. It gives us our only but our adequate significance. A grain of sand has the same, but what competent person supposes that he understands a grain of sand? That is as much beyond our grasp as man. If our imagination is strong enough to accept the vision of ourselves as parts inseverable from the rest, and to extend our final interest beyond the boundary of our skins, it justifies the sacrifice even of our lives for ends outside of ourselves. The motive, to be sure, is the common wants and ideals that we find in man. Philosophy does not furnish motives, but it shows men that they are not fools for doing what they already want to do. It opens to the forlorn hopes on which we throw ourselves away, the vista of the farthest stretch of human thought, the chords of a harmony that breathes from the unknown.

WHETHER IN HOLY SCRIPTURE A WORD MAY HAVE SEVERAL SENSES?

St. Thomas Aquinas I, Summa Theologica, (ed. Pegis, 1944) 16-17

Tenth Article

We proceed thus to the Tenth Article:--

Objection 1. It seems that in Holy Scripture a word cannot have several senses, historical or literal, allegorical, tropological or moral, and anagogical. For many different senses in one text produce confusion and deception and destroy all force of argument. Hence no argument, but only fallacies, can be deduced from a multiplicity of propositions. But Holy Scripture ought to be able to state the truth without any fallacy. Therefore in it there cannot be several senses to a word.

Obj. 2. Further, Augustine says that the Old Testament has a fourfold division: according to history, etiology, analogy, and allegory. Now these four seem altogether different from the four divisions mentioned in the first objection. Therefore it does not seem fitting to explain the same word of Holy Scripture according to the four different senses mentioned above.

Obj. 3. Further, besides these senses, there is the parabolical which is not one of these four.

On the contrary, Gregory says: Holy Scripture by the manner of its speech transcends every science, because in one and the same sentence, while it describes a fact, it reveals a mystery.

I answer that, The author of Holy Scripture is God, in Whose power it is to signify His meaning, not by words only (as man also can do), but also by things themselves. So, whereas in every other science things are signified by words, this science has the property that the things signified by the words have themselves also a signification. Therefore that first signification whereby words signify things belongs to the first sense, the historical or literal. That signification whereby things signified by words have themselves also a signification is called the spiritual sense, which is based on the literal, and presupposes it. Now this spiritual sense has a threefold division. For as the Apostle says (Heb. x. 1) the Old Law is a figure of the New Law, and Dionysius says the New Law itself is a figure of future glory. Again, in the New Law, whatever our Head has done is a type of what we ought to do. Therefore, so far as the things of the Old Law signify the things of the New Law there is the allegorical sense; so far as the things done in Christ, or so far as the things which signify Christ, are signs of what we ought to do, there is the moral sense. But so far as they signify what relates to eternal glory, there is the anagogical sense. Since the literal sense is that which the author intends, and since the author of Holy Scripture is God, Who by one act comprehends

all things by His intellect, it is not unfitting, as Augustine says, if even according to the literal sense, one word in Holy Scripture should have several senses.

Reply Obj. 1. The multiplicity of these senses does not produce equivocation or any other kind of multiplicity, seeing that these senses are not multiplied because one word signifies several things, but because the things signified by the words can be themselves signs of other things. Thus in Holy Scripture no confusion results, for all the senses are founded on one--the literal--from which alone can any argument be drawn, and not from those intended allegorically, as Augustine says, Nevertheless, nothing of Holy Scripture perishes because of this, since nothing necessary to faith is contained under the spiritual sense which is not elsewhere put forward clearly by the Scripture in its literal sense.

Reply Obj. 2. These three--history, etiology, analogy--are grouped under the literal sense. For it is called history, as Augustine expounds, whenever anything is simply related; it is called etiology when its cause is assigned, as when Our Lord gave the reason why Moses allowed the putting away of wives--namely, because of the hardness of men's hearts(Matt., xix, 8); it is called analogy whenever the truth of one text of Scripture is shown not to contradict the truth of another. Of these four, allegory alone stands for the three spiritual senses. Thus Hugh of St. Victor includes the anagogical under the allegorical sense, laying down three senses only--the historical, the allegorical and the tropological.

Reply Obj. 3. The parabolical sense is contained in the literal, for by words things are signified properly and figuratively Nor is the figure itself, but that which is figured, the literal sense. When Scripture speaks of God's arm, the literal sense is not that God has such a member, but only what is signified by this member, namely, operative power. Hence it is plain that nothing false can ever underlie the literal sense of Holy Scripture.

THE LIBERAL PHILOSOPHY

A POLITICAL PRIMER FOR UNIONISTS

By William L. Abbott

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness."

Declaration of Independence

URW Education Department, 87 S. High St., Akron, Ohio

Which side are you on?

Once upon a time men may have been able to say they were either on the political right, for the preservation of the established order, or on the left, for more freedom and social change. A man knew where he stood - as a monarchist, a Tory, a conserver of past values if he was on the right, or a reforming liberal or radical socialist if on the left.[1] This was in the 19th century. Even then the political spectrum was muddied. For example, where was one to put the anti-capitalist, reform-minded Southern populists who defended slavery before the Civil War? But what were pools of mud a century ago have turned into a vast sea of gooey definitions.

What does one do with the word "socialism"? The Communists are "socialists," so are their British Labour antagonists, so were the Nazi "national socialists," so are France's Radical Socialists whose philosophy Time once likened to America's GOP; and everyone knows that Sweden is the world's model democratic socialist nation, unless it's Norway or Israel.

Outside of North America and some feudal nations, the word "socialism" is as popular as "democracy," "peace" and "freedom," and often just as meaningless.

Nor does the term "conservatism" mean the same thing to all people. Phyllis Schlafly's conservative hero was Barry Goldwater, "the man with the courage to give us simple solutions."[2] The hero of Robert Welch, head of the "conservative" John Birch Society, is the man who conforms to the disciplines of the Society in opposing democracy and other liberal beliefs, but the hero of writer Ayn Rand in her Fountainhead was the superman who defied the mediocrity of the mob. Then there are the British conservatives who support socialized medicine!

Clinton Rossiter, another conservative spokesman, defines his philosophy thusly: "Conservatism is committed to a discriminating defense of the social order against change and reform. The conservative knows that change is the rule of life among men and societies, but he insists that it be surefooted and respectful of the past."[3]

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[1] "Left" and "Right" come from the French National Assembly, 1789, where according to Thomas Carlyle, "There is a Right Side (Coté Droit), a Left Side (Coté Gauche) sitting on M. le Président's right hand or on his left: the Coté Droit conservative; the Coté Gauche destructive." The French Revolution, Random House, P. 174.

[2] Phyllis Schlafly, A Choice Not an Echo, Pere Marquette Press, Alton, Ill., 1964, P. 85. Mrs. Schlafly argues that an Eastern liberal conspiracy has dominated the Republican Party and made it meaningless for conservatives.

[3] Clinton Rossiter, Conservatism in America, Random House, N. Y., 1962, P. 12.

This moderate is a greatly different type of conservative than those of the radical right who are reactionary; that is, they would go backward into times past.

The right wing is radical, a word which means "root" or going to fundamentals and therefore demanding basic changes.[4]

Why do moderates and radicals fight for control of the word "conservative"? Because society has changed radically and our political expressions have not caught up with these changes. All of us are experiencing a cultural lag where our words and ideas have not caught up with actual change.

Nothing is sacred. Not even the term "Christian." The Christian Democratic parties of Europe are left to a rightist and right to a leftist. Clear?

A new organization, Confederacion Latinoamericana de Sindicalistas Cristianos (CLASC) - Latin American Confederation of Christian Unionists - is financed with West German "Christian" money although it denounces the U. S. and advocates class violence and a vague Communism.[5] In Chile, an outright left-socialist Christian Democratic party is considered even by some conservatives as a hopeful alternative to Communism.

Not all Christian socialists are Roman Catholic. Norman Thomas, leader of America's Socialist Party, was a former Presbyterian minister, and he was influenced by the American Christian Socialist movement which was Protestant.

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[4]For one interpretation of the motives of the radical right see The Radical Right, edited by Daniel Bell, Doubleday, Garden City, N. Y., 1964.

Among reasons given for the upsurge of right extremists are those given in the book by Talcott Parsons: "Common to all the multifarious aspects of the right wing is a certain type of 'individualism.' It has such facets as the individualism of the small unit as against the large - the independent entrepreneur versus the city corporation, and similarly the rural and small town versus the city and the metropolis..." (P. 233) Or, Daniel Bell's "In politics, the moralistic residue led to black and white judgements: If anything was wrong the individual was to blame. Since there were good men and bad men, the problem was to choose the good and eschew the bad. Any defect in policy flowed from a defect in the individual, and a change in policy could begin only by finding the culprit." P. 18

[5]For a fascinating discussion on this and other recent international labor developments see "Latin Labor's Alarming Christians" by Gladys Delmas, Reporter, February 25, 1965.

In the midst of all this we come to the word liberal, which has just as much confusion surrounding it as any other political expression.

What is a liberal?

Liberalism, said Charles Frankel, was the social movement that spoke most distinctly for modern man's sense of the new powers which technology and science brought him. Liberalism, he said, expressed the restless, mobile city inhabitants' values as opposed to the settled and satisfied country dwellers.

Liberalism argued that man makes his own environment and that by changing one's environment - for example, taking juvenile delinquents out of the slums - man himself can change. Liberals invented "social problems."

"The vision behind liberalism is the vision of a world progressively redeemed by human power from its classic ailments of poverty, disease and ignorance."[6]

Liberals believe that the struggle for power is unending and therefore they seek to keep power in balance as the antidote to totalitarianism. Liberal economist John Kenneth Galbraith said: "some way must be found, in an economy that produces as many things for so many tastes as that of the United States, to effect a wide decentralization of the power of final decision. Nothing else is so important...".[7]

A liberal is a reformer. He is a man who, according to William J. Newman, "spends his energies in changing the system in important particulars, but who generally gives little thought to changing it as a whole."

Like conservatives and Marxists the liberal accepts the class struggle, but he wants to keep the struggle in balance instead of wishing for the total victory of either the bourgeoisie or the proletariat. He doesn't believe in totalitarianism and while he presently veers toward big government as a solution to most present social problems, he counterbalances himself with a soul of an anarchist. He is more of a democratic personality type than an authoritarian type.

He is more heart than intellect, but he paradoxically places more faith in man's rationality than in intuition.

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[6]Charles Frankel in Power and Civilization, edited by David Cooperman and E. V. Walter, Thomas Y. Crowell Co., N. Y., 1962, P. 422.

[7]J. K. Galbraith is associated with the theory of "countervailing power" where one power checks another power - example, labor checks corporation power.

He is pragmatic, practical, like F. D. R.'s New Deal where the only ideology was that of getting things for people done. What was "good" was what worked.

But he did have a social conscience. He cared for people, particularly the oppressed and downtrodden. He saw "progress" in terms of social institutions, while the conservative saw "progress" in terms of new machines and scientific innovations.

A liberal, says conservative Clinton Rossiter, chooses change over stability, experiment over continuity, the future over the past. "In short, he is optimistic rather than pessimistic over the possibilities of reform."

A liberal is an optimist. He is a democrat. He is a libertarian. He is an equalitarian. He is a do-gooder and he is often the realistic kind of do-gooder who can conceive of a Marshall Plan which would, at the same time, rebuild nations and stop the advance of dictatorship.

And a liberal is also closer to a genuine conservative like Rossiter than he is to an orthodox Marxist. DeWitt C. Poole said politics should be conceived in terms of a circle instead of as a straight line. Moderates would meet at one end of the circle and extremists at the other.

Take two key issues which traditionally divide people - liberty and property. Real liberals and conservatives stand together in stout defense of liberty. Communists and right wingers oppose democratic liberty. However, liberals and conservatives fundamentally divide over property because liberals put human rights above property rights.

A labor union, for example, is an attack upon the unlimited right of private property because unions seek to extend the rights of workers while limiting the property rights of the employer.

Does the liberal stand to the right or to the left? In 1949 liberal spokesman and historian Arthur Schlesinger, Jr., advocated the concept of the "vital center" which was neither right nor left but, to use the words of French socialist Leon Blum, a "third force" between Communist and conservative extremists. No dogmatist, Schlesinger appeared to lump socialist firebrands together with moderate Republicans into his world-wide centrist camp. They were united by a bond called "freedom."

The triumph of the vital center idea came with the election of President Lyndon B. Johnson in 1964, when he received the support of such diverse elements as Socialist leader Norman Thomas and Republicans like Henry Ford.

The tricky balance of freedom, justice, security

"Man is born free," said a French liberal, Jean Jacques Rousseau, but everywhere he finds himself in chains. To gain his freedom he makes a social contract. Rousseau seems wrong today about man being born free because he is so completely dependent upon parents and society. He is moral, for example, because he lives in society. Man is, as Aristotle said, a political animal.

A unionist can understand a social contract with management because without it he has no real freedom. He has the freedom to resign and become unemployed or to accept humiliating dictatorial domination. But this is not really any freedom at all, for freedom must be accompanied by dignity, the power to make worthy choices. And it is these choices which develop the character of ourselves and our institutions.

Freedom must contain security, for without security man cannot really be free. Girls herded into New England textile mills, forced to work from dawn to dusk, locked in the factory at night and forced to sleep two in a bed were only "free" to quit and go home in disgrace, to beg on the street or to become a prostitute. They had no genuine choice in the middle 1800's when this situation commonly took place.

Life is not, as conservatives insist, a choice between security and freedom. Security is not a jail; it is the firm ground one needs to begin the adventure of life.

Nor can freedom and security long survive without justice, individual and social. Thus, freedom, security and justice form the key principles of liberalism.

At one time or another one principle is in the ascendency while the others may be submerged. Like the basic needs of mankind so well stated by psychologists like A. H. Maslow who pointed to five fundamental human needs, all existing, but only one paramount at any given second of human existence.

Which came first with liberals? Freedom? Security? Justice? We don't know this chicken or the egg question. Guilds for the security of workers existed in India in 600 B. C. We hear of strikes against Pharaohs in Egypt in Egyptian hieroglyphics and in the Book of Exodus when the Jews under Moses went on strike. And as for social protest, listen to the prophet Isaish:

"... ye have eaten up the vineyard; the spoil of the poor is in your houses. What mean ye that ye beat my people to pieces, and grind the faces of the poor?"

Listen to the outrage of the early Christian saints over social injustice:

"The soil was given to the rich and poor in common - wherefore, oh ye rich, do you unjustly claim it for yourselves alone? ... Property hath no rights. The earth is the Lord's and we are his offspring."

St. Ambrose (340-397)

"The superfluities of the rich are the necessaries of the poor. They who possess superfluities possess the goods of others."

St. Augustine (314-430)

And here is John Ball of Kent, England, in the Middle Ages:

"By what right are they whom we call lords greater than we? If we all came from the same father and mother, of Adam and Eve, how can they say or prove they are better than we if it be not that they make us gain for them by our toil what they spend on their pride?"

Here was the democratic impulse, for justice must be based upon equality, despite the bitter irony of another social critic, Anatole France, who said the law in its majestic impartiality allows both the rich and the poor to sleep under the bridges.

Liberalism is a protest against social and individual injustice. And it is the workers and clairvoyant radicals who serve as the liberal's conscience and spur him to action to correct evils. Did liberal legislation like the Wagner Act bring about unions or did militant workers give the law a push? Ask any industrial worker who had his head bloodied years after the Wagner Act.

If labor ceases to be a social conscience, where are the liberals and where is labor? If labor loses moral outrage over injustice, it has betrayed the thousands of martyrs from the Roman Spartacus to the Hungarian freedom fighters. It will have lost its right to exist.

Liberals over the state

There was a time when liberals opposed positive government action - and when conservatives fostered big government. Liberal Thomas Jefferson said that government which governs best, governs least. His archrival and conservative par excellence, Alexander Hamilton, wanted a strong central government to encourage economic expansion - the very thing modern liberals want!

But the Age of Jackson changed all this. To fight the bankers and other special interests, President Andrew Jackson had to enlarge the powers of the state. He did so to protect society

against wealthy plunderers of the public interest. Since that time liberals have looked to the federal government to expand freedoms and secure more justice.[8]

Liberals have always felt uncomfortable in this role of supporters of big government because they are Jeffersonians at heart.[9] It is not that they lean toward state or local government (which unfortunately too many feel is unworthy of their interest), but that they favor the individual against all government or centers of power.

The conservative favors small government because he can control it. Furthermore, the true conservative feels a stake in society which too few workers feel. This accounts for the conservatives' higher voting percentage, although he is clearly outnumbered by workers.

Liberals are often soft on conscientious objectors like Henry David Thoreau who went to jail rather than pay taxes to finance the Mexican War which he considered immoral. To Thoreau there was a moral law higher than the state which necessitated "civil disobedience." The most salient present-day example of Thoreau's theory is the civil rights struggle of passive resistance against neanderthal governments like Mississippi. Integrationists felt that individual conscience came before the law of the state. But "conscience" is not rational and thus we come to liberal inconsistencies and its crisis.

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[8]There was no crystalization of the liberal-labor alliance until the New Deal for labor fared better in the states than with the federal government which sent troops out to break strikes and even invented the concentration camp in the Rockies to oppress unionists. Labor did better in Illinois with Governor John P. Altgeld or in Wisconsin which passed workmen's compensation and other pro-worker laws.

[9]Jefferson, the greatest name in liberalism, feared both government and the rising cities. He was wrong in fearing the civilizing man of the city, but his healthy fear of concentration of power has guided liberals to this day.

CRISIS IN LIBERALISM

Separate Revolutions

We are living in the age of revolutions. There is not one revolution to accupy us, but a number of profound changes taking place, changes that make our times one of the most pivotal in history.

There is the revolution in weaponry. Our country and Russia have the H-Bomb equivalent of 15 tons of TNT to blow up every person on the globe.

There is the revolution in science and knowledge. Ninety per cent of the scientists who have ever lived are still living today. Knowledge, in sheer bulk, doubles every ten years.

There is the revolution against colonialism. We had our revolution in 1775, but many nations are beginning their struggles for independence.

There is the Civil Rights revolution in the U. S. This is a legitimate revolution because integrationists are demanding and causing fundamental social changes.

There is the revolution of technique and technology. This "second industrial revolution" will probably be just as far reaching as its predecessor.

How do liberals face up to revolutions? In general, not well. They are evolutionaries, gradualists, step-by-step pragmatists. Their philosophy ill equips them to handle revolutionary fires.[10]

Liberals of a past generation who thought the way to solve racial discrimination was through brotherhood dinners, face to face white-Negro confrontations and "education" were accused of dilettantism by tougher-minded younger people convinced that an all-out fight was needed to solve the problem.

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[10] Two important schools of philosophical thought - "pragmatists," represented by people like William James and "idealists" (in the classical German tradition of Kant and Hegel) represented by Americans like Josiah Royce fought for the public mind. Pragmatism won because it was the philosophy of building, of the frontier, while idealism meant tearing down the old and completely rebuilding. The need today is for a philosophy of rebuilding to replace outdated pragmatism, which is chaining liberals instead of helping them.

Some liberals were bewildered at integrationist tactics, for they looked too much like those of the hated fanatic-like Eric Hoffer's "True Believer." But how else does one win a war?

Many liberals preached the opposite tactics of the integrationists. Clark Kerr, Chancellor of the University of California, made this classic statement of individual disengagement:

"I would urge each individual to avoid total involvement in any organization; to seek to whatever extent lies within his power to limit each group to the minimum control necessary for performance of essential functions; to struggle against the effort to absorb; to lend his energies to many organizations and give himself completely to none; to teach children to be laws to themselves; as Walt Whitman urged us many years ago - for that is the well source of the independent spirit."[11]

And after this came the deluge. Students revolted in massive demonstrations on California's campus. Kerr didn't know what hit him. The liberal hero of a past decade had turned villain. He deserved better as do all liberals eaten up by revolutions. The University of California has become in Kerr's words a "multiversity, a huge impersonal education factory, draining students of their dignity and purpose. And Kerr's philosophy had no real meaning for youth in rebellion.

What today's youth needs is a fiery John L. Lewis telling them, "Organize! I hope you do something for yourselves!" Just as the pragmatism of a Samuel Gompers had no meaning to embattled factory workers in the 1930's, so the talk of too many liberal spokesmen is empty of meaning for the battles of the sixties.

This is to argue that in a revolutionary situation you either gear yourself to the situation or you retire while you are still honored for past contributions.

No one can say that revolutionaries George Washington and Ben Franklin were fanatical totalitarians because they were committed unto death to the cause of independence. They were immoderate moderates when it came to fighting British tyranny. Dedicated commitment is necessary for every social movement. It is the very core of the labor movement. Labor could not exist without the unpaid shop steward or local union officer who is <u>committed</u> to a cause greater than himself.[12]

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[11]Quoted from William H. Whyte's <u>The Organization Man</u>, Simon and Schuster, N. Y., 1956, P. 46. Whyte wrote a brilliant analysis of what is happening to our society, but he failed to give any viable solutions.

[12]Commitment or loyalty is the central problem in labor not only according to myself, but to most union leaders who see a withering away of vitality in the apathy of union members.

Because labor recognizes commitment, dedication and loyalty as necessary values, labor is in a better leadership position today than those liberals who have never participated in social movements. Labor's skills are needed because labor, as a social movement, can best understand social movements.

Can man be free and still be committed?

Can a free man wholeheartedly commit himself to a cause? Why yes. But wait. Some liberals like California's Clark Kerr don't think so. A cause is demanding of total commitment and "total" ends in "totalitarian."

The second proposition of this kind of liberal is that a cause is not necessarily reasoned. It is emotional. It is based upon faith and you cannot measure or see or touch faith. Causes will get you into trouble with the Unliberal Activities Committee.[13]

Mobilization of fighters for a cause means the use of the myth and other emotional, inspirational and intuitive methods. But Hitler and Stalin used these methods and they are therefore unsanitary.

There has to be a key mistake in such a line of argument. Don't such liberals believe in a one-dimension man whereas, in truth, man is many-sided and many-depthed?

Conservatives don't discount man's instincts and emotions. They frankly don't trust them. But if liberals believe in man's goodness, they have to believe in the whole man.

Are we to write off the faith of Christian and other religionists? Are we to write off empirical research done by Emil Durkheim in his La Suicide where he proved a mystical collective voice speaking to individuals? Are we thus to write off French thinker Georges Sorel who in his Reflections sur la Violence argued the myth of the invincible workingclass - which unexpectedly came to fruition in Akron, Flint and Detroit where workers who thought themselves invincible won victories against overwhelming odds? An Akron rubber worker had never heard of Sorel, but he acted exactly as Sorel predicted some workers somewhere would act.

And what of Nathan Hale, Joan of Arc and other national heroes who died for a cause? Did their dedication make them slaves or rather did it liberate them even from death? It may seem too oriental to some, but isn't liberation of self surrender to a cause?

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[13] Of course I am being unfair to liberals. A Hubert Humphrey or a Wayne Morse would never ascribe to the beliefs of my straw man "liberal." But one must characterize at times to illustrate points.

The Anxious Age

When Arthur Schlesinger, Jr., sought to write a new definition of liberalism in 1949, he clairvoyantly talked of humans going through "a global change of life." He said: "science and technology have ushered man into a new cycle of civilization, and the consequence has been a terrifying problem of adjustment... The velocity of life has entered into a new phase. With it has come the imperative need for a social structure to contain that velocity - a social structure within which the individual can achieve a measure of self-fulfillment."[14]

He manfully grappled with the problems of a totalitarianism which offers solutions to the "anxious man" whereas freedom seemed only to add to man's anxiety. One student of society, David Reisman, later said that "freedom is too much of a threat" for today's "other-directed man" who wants others to fashion his life.

Schlesinger saw the answer as one of making "freedom a fighting faith" through social conflicts, where men realize themselves by fighting for decency and democracy. But to mobilize a fighting army one needs myths, banners, slogans, hate objects - the very paraphernalia Schlesinger deplored. Without inspiring visions or fear, who wants to fight?

The problems Schlesinger posed are more acute today. A. H. Raskin, commenting on California's student revolt had this to say:

"Menacing as is this new disruptive device, one even graver danger sign outranks all others raised by the mess at Berkeley. That is the degree to which it evidences a sense of lost identity, a revulsion against bigness, that is affecting all our society. On the campus it takes the form of antagonism against the multiversity. In the mass production unions this same feeling of impending obliteration recently spurred rank and file strikes against General Motors and Ford, and may erupt again in the basic steel industry this spring. The longshoremen, fearing the shiny face of automation, voted down contracts that gave them lifetime job security and a generous wage guarantee - principally because they felt the machine was grinding them and their jobs into nothingness."[15]

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[14] Arthur Schlesinger, Jr., The Vital Center, Riverside Press, Cambridge, Mass., P. 3.

[15] New York Times Magazine, "The Berkeley Affair," Feb. 14, 1965.

One angry writer, Henry Anderson, wrote:

"Many Americans sense that there must be something fundamentally wrong with a society in which people don't care whether they live or die; where suicide is the tenth leading cause of death, and another form of self-destruction, alcoholism, is eighth; where people go on smoking cigarettes in full knowledge that it will kill one in six of them; where people go on making bombs and bacterial weapons that can kill sixty out of every six of them... Many Americans know in their hearts that we are on the highroad to dehumanization when so many of us don't really believe in anything or anybody..."[16]

A thoughtful labor view comes from Paul Blau of the Austrian Trade Union Federation who chides American labor for its "capitulation to technology as an end in itself." He concludes with the hope that "it is not enough to find some way of living with the technological revolution, of adapting to it. There is much more at stake than that. The new technology must serve us as a tool for building tomorrow's world. This is the attitude we need if the slaves of the machine are to become its masters once again."[17]

Glen Tinder, a reflective critic of current liberalism, speaks of our society in "mass disintegration" where man is alienated from his work, from his fellows, from himself. Man is isolated from man and he thus becomes part of the lonely crowd.

Years ago workers were downtrodden, but at least they had a sense of solidarity with their class. Today most have even lost this sense of communion. "The insufficiency of liberalism for our time," says Tinder, "is due simply to the fact that it is not addressed - for it has nothing to say - to alienated man."[18] Tinder advocates a return to religious qualities of revelation, faith and vision.

British socialist, Iris Murdoch, criticized her fellow Labourites in much the same vein. The technicians have taken over socialism and ideals suffer. She warns: "It is dangerous to starve the moral imagination of the young."

Critic William J. Newman scolds liberals for having lost their sense of history (the belief in progress of mankind). Then he explains: "The whole defensive posture of the liberal today

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[16] "The Backlash Nobody Knows," Liberation, Feb., 1965.

[17] Paul Blau, "But Should We Adapt to Automation," Free Labour World, November, 1964.

[18] Glen Tinder, The Crisis of Political Imagination, Scribners', N. Y., 1964, P. 124.

is explicable in terms of his fear and suspicion of the meaningless qualities of his society."[19] Newman mentions alienation which liberals have not yet come to grips with and he advocates an ideology to restore the vital juices into a withering liberal body.[20]

French thinker Jacques Ellul sees no hope for any future other than a benevolent ("Big Brother") world totalitarianism. Unions, if they exist, will become apoligists for the system like Russian unions. "When the economy becomes exact and technical, it cannot tolerate the intervention of workingclass desires... the real function, then, of workers' desires is to advance and improve technique, and not at all to enhance his freedom." Man himself will become "a production and consumption machine."[21]

Bigness begets bigness as a counterbalance until all becomes big. Just one example: The nation's 500 largest corporations have increased by 33 per cent (and their workforce by only 11 per cent) while all manufacturing employees have dropped by 1 per cent. Small business is on the way out, unable to keep up with automation and other big corporate techniques.

If there is to be a way to guard freedom, unions seem the best hope. In fact, they are the last line of defense against the onslaught of the machine. But they are going to have to be much more political.

A. H. Raskin felt that understanding the fundamental problems of society by unionists "would be vastly more inspiring to union membership and leadership alike than the present ever more routine, even self-canceling, function of policing day to day plant grievances, the writing of mechanized contracts, and the drafting of funeral arrangements for thousands upon thousands of jobs."[22]

For those disciplined to believe such a theory we have the opinion of sociologists who went to Detroit and made an on-the-spot study of auto workers and how and why they voted.

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[19] William J. Newman, Liberalism and the Retreat from Politics, George Braziller, N. Y., 1964, P. 100.

[20] The German writer Schiller explained work alienation: "Gratification is separated from labor, means from ends, effort from reward. Eternally fettered only to a single little fragment of the whole, man fashions himself as a fragment...".

[21] Jacques Ellul, The Technological Society, Alfred A. Knopf, N. Y., 1964, P. 210.

[22] A. H. Raskin in Tom Brook's Toil and Trouble, Dial Press, N. Y., Foreward.

One conclusion:

"Among the tangled values and contradictory values that characterize our times probably none are more important, and more neglected by "practical politics," than the pervasive, vague, idealistic yearnings for social goals one can really believe in, goals shared by one's fellow man and worth working for with wholehearted purposes that give a sense of community and meaning toward life."[23]

Labor and Liberalism

Operating in a decentralized manner, COPE, AFL-CIO's Committee on Political Education, says University of Wisconsin's Jack Barbash, has "provided the basis of strength for the welfare state program in the Democratic Party and (has) confronted the Republican Party with the need to moderate its tendency toward doctrinaire conservatism if the party is to be a mass party rather than an ideological party."[24]

Barbash said labor is not "an initiating force" in the creative stages of social programs, but once the program is composed and unions like it, then unionists will hang on doggedly until the program becomes law. Barbash is correct in his analysis, unfortunately, for labor must change its role and become creative. This is a difficult but not impossible venture.

There is no historical dictum which says labor cannot be creative. The social historian P. Boissonade credited workers and peasants in the Middle Ages with establishing a national identity:

"It is thanks to the devotion and spirit of those medieval masses that nations become conscious of themselves." He further credits workers of the 14th century with establishing freedom. He says:

"For the first time the masses, ceasing to be mere herds without rights or thoughts of their own, became associations of freemen, proud of their independence, conscious of the value and the dignity of their labor, fitted by their intelligent activity to collaborate in all shares, political, economic and social, in

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[23]Arthur Kornhauser, Harold L. Sheppard, Albert J. Mayer, When Labor Votes, University Books, N. Y., 1956, P. 287.

[24]Jack Barbash, "Unions and Politics," Challenge, December, 1964.

the tasks which aristocrats believed themselves alone able to fulfill."[25]

The workers created their own social security, status structure, guaranteed annual wage, full employment act, sense of identity and group solidarity - and they licked the problem of alienation and anxiety. They gave a man's life meaning and worth.

This act directly preceded the "renaissance" or rebirth of civilization.

We have to have a sense of historic mission. Certainly, workers are more intuitively aware of our profound social problem of Big Technology than most other segments of society. The restlessness of workers over "automation," and by this they mean a system of work organization over which they have no control, must be channeled into constructive political activity.

Here is a program for discussion among unionists. It is not meant to be official policy for it is not. But we must have constructive discussion if we are to have a fruitful future:

1. Embrace President Johnson's concept of the "Great Society" as a goal which, even though unattainable, gives both qualitative and quantitative targets to shoot at.

   President Johnson has added a new note when he says "we seek to enrich the life of man." This is recognizing roses as well as bread. The UAW, never philosophically far behind anyone, said, "Let us resolve to improve the quality of our lives - of every part of our lives, the spiritual as well as the economic."

2. Accept the idea of democratic economic planning. We must say that unemployment is as morally wrong as racial discrimination. Economic injustice must become a moral issue. AT and T made $1.7 billion profit in 1964; General Motors made a cool $1.59 billion in 1963. But twenty per cent of our people still live in poverty. It is simply immoral for people to hunger while others have more money than they know what to do with.

3. We must have more vision and guts to say what we mean and get what we want. Labor is not running for office and it should be easy to speak up.

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[25] P. Boissonade, Life and Work in Medieval Europe, Harper and Row, N. Y., 1964, P. 335. Also see Frank Tannenbaum, A Philosophy of Labor, Alfred Knopf, N. Y., 1952. He argues that unions are the expression of the workers' need to return to the guild system to give direction to their lives.

Why not an All-American Education Bill of Rights? Why should any American who wants to go to college and who is college material be denied higher education because of his income?

Since work has lost its meaning and income instead of work is becoming more important, why not a guaranteed annual income for all Americans?

And why not a National Health Insurance plan to keep all Americans in good health? Why contribute to mental illness because people worry over the payment of doctor bills? People are often too proud to accept the humiliation of charity. The British plan taught their nation a lesson in dignity.

4. Democratic labor is the one force which has shown itself capable of beating the Communists to the punch in the championship of the oppressed. Just as labor asks $1 from union members for COPE, it should ask for $1 to go to a "peace and freedom fund" to finance union efforts overseas. If democratic labor had been in South Vietnam with an effective program, would we be in the mess we now are in?

What are labor's real political goals?

Ohio AFL-CIO's official publication, News and Views, recently lambasted its Democratic Senator, Frank Lausche, for voting against his own party 79 per cent of the time! The labor organization thought Lausche should be booted out of the party. And several years ago, UAW President Walter Reuther was even more specific when he urged "party responsibility." If, as Congressional Democrats decided in 1965, a Democrat supports the enemy, he should be punished.

But AFL-CIO is nonpartisan! COPE supports both Republicans and Democrats. Can you have it both ways? Here AFL-CIO and NAM are in complete agreement: Political parties have less meaning and importance than the words "liberal" and "conservative." This means, in terms of party discipline, that a liberal Republican like New York's Senator Jacob Javits and a conservative Democrat like Virginia's Harry Byrd are both "irresponsible."

Now labor's nonpartisanship promotes this type of irresponsibility. To a purist this may seem awful but it's not as bad as it sounds.

Obviously, the mainstream of labor - that is, the accumulation of political decisions made on local, state and national levels over the years - feels the word "liberal" is a more important criterion than a party name. Even the old term "labor candidate," meaning a man who votes against restrictive labor legislation and is judged by unions solely on this basis, is going out of style.

What if a man votes against Taft-Hartley and also against Medicare? Does he deserve a union vote?

The social unionist would say "no." Because social unionists are more active in politics than other types of unionists (because they believe in politics and they are more skilled), nearly all labor decisions in most, but not all, regions are social decisions.

But "social unionism" seems just too pious and pompous. We are congratulating ourselves for being where we should have been twenty years ago. We know the facts of life; that liberals are important to us and to society. What are we then doing in our little sanitized nests of locals when we should be fighting in the parties seeing that liberals become the candidates for public office?

Too often, far, far too often, unionists have had to make the choice between the lesser of two evils instead of working to make the choice one of positive good. Why not a choice between a Javits and a Humphrey instead of a Lausche or a Taft?

There is another side to this coin - wouldn't the election of a Javits as President drag in a multitude of reactionary Republicans? By voting for a liberal in a conservative party, isn't one primarily aiding the conservative cause? There is no simple answer, but this is an example of an area where we should be having fundamental discussions.

Politically, labor must aim at social cohesion within its own ranks. It must work at giving members a sense of identity, of belonging, of status and solidarity. It must inspire with great projects and visionary goals.

With an aroused conscience and a committed fighting force, labor should well be able to force politics to address itself to more fundamental social problems demanding solutions.

Is this you?

Something's missing. I can't find it. I don't know where to look or what I've lost. Why this emptiness? Why do I miss it?

I had it once. I remember... I remember the big factory, brush those cobwebs away. I remember the fumes and the men

coughing and the screams when men got caught in the mill and they carried them out, dead or worse, without a way to make a living. I remember the rawhide beat, one... two... one... two... two... two, two, two, two. Bang! You dropped, beat at thirty-five and canned by the company. Too damned old and little eyes wondering why their daddy was only good for a bread line.

I said "nuts." My buddies, they spit and they said "nuts." Then we were sitting down. Hug those machines, boys. When the cops come, they won't hurt the machines. They're valuable, even though we're not. By God, a man's got to be better than a machine. And when we said to each other we are better than machines, when we said it enough to believe it, that we counted because we were people, we felt wonderful, like a gusher leaping up inside us.

A guy said, "You can't fight the system!" Who says not? A machine's steel, that's all. Sure, the machine's turned men into machines, robots who don't think or question, feel, who just do what the bosses of the machine tell them. But they're scabs who sold out the human race.

These robots of men said it's not respectable to form a union and to fight for what you believe is right. What is respectable then? Starving? Licking the bosses' boots? Getting kicked around? Listen pal, we're men now and we're fighting for something that makes us better than the machine.

Stand up, boys, here they come with guns drawn up Akron's Market Street. Courage, we'll die first before they make us machines again. Behind, from Chicago, they killed ten; at least they died for something precious, their fellow men; in Detroit, Flint, Toledo, they won't get us, boys, they won't get us down again... Their ranks are breaking, we've won, by God, we've won!

Victory, what a sweet, wonderful smell! How good to feel like a man and to stand tall with your buddies. It was different then. I was different. A real corker. More guts than brains. But I was alive then, no money, but I was really alive.

Oh, today things are fine. I finally paid off my house. My kids are almost through college. The mayor himself appointed me to a citizens study committee and some people say I'd make the good solid type to run for public office. Me, a hell-raising radical thirty years ago. Respectable now. It's nice for the wife.

Everything would be great if it wasn't for my daughter Alice. She got arrested on a civil rights picket line. Embarrassed me half to death. Why the girl? The boy's got straight A's studying to be a doctor, keeps his nose clean. Good solid kid. Why my baby Alice disgracing us by walking a picket line? Why do these kids want to cause trouble? They got it good now, not like me when I walked the picket line. Why don't they appreciate what I went through to give them all these advantages? Alice, why do you make your father so uncomfortable? What do you want? What do you want?

Is "human nature" good or bad?

"Basically good," say the liberals; "Bad," say conservatives.

According to A. H. Maslow, chairman of the Psychology Department, Brandeis University, research into human nature has finally settled the matter in favor of liberals.

Man's fundamental needs are good and if he fully understands himself and is aware of his real needs, he will be good.

He has needs of sustaining life, security, social or love needs, the need of self-respect and recognition and lastly, of self-fulfillment, realizing one's potential, being thoroughly human.

All psychological research, he believes, points to a "single ultimate value for mankind, a good toward which all men strive... they (psychologists) agree that this amounts to realizing the potentialities of the person, that is to say, becoming fully human, everything that a person can become."

The mentally healthy man is a good man. He has a clear perception of reality, he is open to experience, he is unified as a person, he is spontaneous, lively, unique, autonomous, he has a firm identity, he is detached enough to look at things objectively, he is creative, he can fuse the abstract with the concrete, he is democratic and he is able to love.

What makes man bad? Bad habits, a shattering experience, a bad cultural environment, bad education, and the urge to self-destruction. The mere belief that man is bad helps make him bad for he therefore has to be coerced, inhibited, suppressed, treated like a naughty child. Man then becomes guilt-ridden, anxious, bored, unable to enjoy pleasures, and he has no identity or worthy life goal.

QUESTIONS FOR DISCUSSION

1. What do we mean by political action? Support "liberal" candidates? Raise money for COPE? Register our side and get out the vote? Educate on the issues? Was the Alabama Freedom March political action? Were the CIO sit-downs in the 1930's political action? Is a strike today divorced from politics? Can "politics" be separated from other activities?

2. Two men, Wayne Morse of Oregon and Strom Thurmond of South Carolina, switched political parties because both, while holding almost diametrically opposed social views, felt that conservatives belonged with Republicans and liberals with Democrats. By switching parties both felt they were doing the responsible, decent thing.

   Now labor says it is for the man, not the party. Labor says it is more realistic to judge men by liberal and conservative labels than by using party labels because each state and even many localities have different political make-ups.

   But does not this "realism" promote party irresponsibility and encourage politicians like Ohio's Senator Frank Lausche to vote against his own party over three-fourths of the time? Can the position of the man not the party be successfully defended today?

3. Studies indicate that people who take political sides, that is, who are partisan, behave more responsibly at the polls than "independents." Committed man seems more desirable for effective democracy than uncommitted man.

   How and why do men take political sides? Why are some people apathetic? Do we want to commit more people to liberalism? How do we do that?

4. Are there really two liberalisms in conflict? Does every great social idea breed offspring who feel the need to change it? Is there a silent battle being waged between those who see their problem and society's problem one of commitment to social idealism versus the liberal who has a disdain for visionary causes?

   Isn't this conflict in labor's ranks as well? The practical day-to-day bread and butter unionist versus the idealist, who sees the union not solely as a mechanism for settling a complaint or getting more money, but as a social cause to give life meaning and to build a better world? Can a man be steadfastly loyal to a grievance procedure?

   Can labor and liberalism be separated today or do the same problems concern them both?

   The "practical" liberal and his union counterpart say, "We have to give the people what they want." And what they want is food on the table, money in the wallet. Man is an economic animal. Is he?

What does the unpaid shop steward get materially? Where is the money for the unpaid political volunteer? What does a Freedom Marcher get? A Peace Corpsman? What material immediate benefits do the unpoor warriors on poverty derive? Not much bread and butter here.

President Kennedy flew directly in the face of the bread-and-butter liberal by asking Americans to ask not what their country could do for them but what they could do for their country. To most Americans such idealism made more sense than materialistic appeals.

In the 1950's Americans began to realize they were drifting, without national purpose, and the new liberals sought to meet the challenge with several idealistic ventures like the Peace Corps and the War Against Poverty. The Civil Rights struggle took hold with a new sense of direction. The tone of liberalism had begun, however haltingly, to change.

What about unionists? Is a change of direction needed here, too? Is the question more and more of economic things? Or is it empty seats at union meetings? Is it getting dedicated and loyal officers and shop stewards? Is it meeting the down-deep fears of the worker haunted by technology and feeling alone in the crowd? Is it one of exorcising tired words and jaded thoughts about bread and butter and meeting the new needs of workers? Aren't the problems of liberalism and unionism increasingly becoming one and the same?

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Letters to The Times

Making Federal Policy

Executive Branch Believed Hampered by Multitudes of Committees

The writer of the following letter, a former consultant to the State Department, is the author of "In Defense of the National Interest" and other books.

TO THE EDITOR OF THE NEW YORK TIMES:

The initiative of Senator Henry M. Jackson, as reported in The New York Times of April 17, in planning to investigate the policy-making processes of the National Security Council, deserves wide popular support. Upon its success or failure may well depend the fate of this country.

For the defects which Senator Jackson has found in the procedures of the National Security Council can be duplicated in all agencies of the Executive branch concerned with the military and foreign policies of the United States. The executive branch of the American Government has become a cumbersome, slow-moving instrument of government which, short of being faced with disaster actual or impending, is incapable of swift, decisive action and radical innovation. It has become government by committee.

Veto on Decision

As I pointed out in testimony before the Senate Foreign Relations Committee on April 15, the State Department is a member of about 700 inter-departmental committees, and to this figure must be added the multitude of committees into which the policy-making process is dissolved within the department itself. These committees tend to become miniature replicas of the United Nations Security Council in that a determined minority of one has a virtual veto over any positive decision.

This system of government puts a premium on inaction and on the mechanical continuation of safe routines. This being so, to refrain from new initiatives must appear to many members of the executive branch by far the safer and more convenient course; hence, the propensity of our Government to continue policies long after they have outlived their usefulness or even when they have become self-defeating.

This government by committee destroys not only individual initiative but also individual responsibility. Since whatever formula a committee is able to agree upon is a labored product of a faceless collectivity rather than the result of the decision of one man, nobody in particular can be held to account for its effects. Applying the misunderstood principles of democracy to the process of policy formation, this system confounds consultation and information, which are essential for sound decision, with the participation on an equal footing of the purveyors of information and advice in the decision-making process itself.

Measures Suggested

The restoration of personal initiative and responsibility to the decision-making process of the executive branch requires essentially three measures: the separation of the making of decisions from information and advice, the location of the making of decisions in individuals rather than agencies or subagencies, and the elimination of the duplication of functions and their overlap in a multitude of agencies, all of which have an equal part in the decision-making process but none of which is ultimately responsible for any particular decision.

If the Eighty-sixth Congress, following Senator Jackson's initiative, frees the executive branch of this handicap of committee government, which in turn hamstrings any new departure in foreign and military policy, it will have at least enabled the American Government to embark upon those novel and bold foreign and military policies which the times demand.

HANS J. MORGENTHAU.
Princeton, N. J., April 17, 1959.

View on Integration Given

TO THE EDITOR OF THE NEW YORK TIMES:

I am sure Homer Bigart in his article "Virginia Integration Splits State Leaders" which appeared in the April 19 issue of The New York Times did not intend to give a misleading impression concerning my editorial which appeared in the March, 1959, issue of the Virginia Journal of Education.

Mr. Bigart quoted me as follows: "Some white parents may reluctantly accept integration to the extent of 10 to 15 per cent * * *."

Taking this sentence out of context tends to misrepresent the sense of the entire paragraph in which it appeared. I would appreciate your publishing my sentence as quoted by Mr. Bigart in context:

"It is difficult indeed to determine precisely what degree of integration a white parent will accept before wishing to withdraw his child from school. While one parent might not object to a half dozen Negroes in a school of 1,000 pupils, the presence of a single Negro could conceivably serve as a basis of withdrawal for other parents. Some white parents may reluctantly accept integration to the extent of 10 to 15 per cent."

ROBERT F. WILLIAMS,
Executive Secretary, Virginia Education Association.
Richmond, Va., April 20, 1959.

[The full paragraph quoted above appeared in the original copy but was deleted for space reasons.—Editor, The Times.]

To Meet City's Expenses

Austerity Budget, With Cut in Costs and Borrowings Advocated

TO THE EDITOR OF THE NEW YORK TIMES:

Time and again those defending the huge city expense budget now under consideration try to justify it by reiterating the fact that the state budget adopted this year also exceeds $2 billion. Of course any informed person knows that this is an absurd comparison.

In the first place, more than half of the state budget goes back to the localities for local purposes. The state is just a conduit for these funds.

In the second place, the state budget includes capital expenditures and not just annual expense items. The city, of course, has a separate capital budget in addition to the $2,173,000,000 included in the current expense budget. All this should be better known. These are the figures:

Proposed city budget—$2,173,000,000; state budget, for state purposes—$678,000,000.

City capital budget for 1959—$540,000,000; state capital construction budget—$317,000,000.

New York City debt, less reserves, as of Dec. 31, 1958—$3,225,000,000; outstanding state debt as of March 31, 1959—$1,340,200,000.

Debt service charges, New York City—$376,600,000; state debt service, including principal and interest—$63,400,000.

These figures speak for themselves. There seems little prospect that the city will ever face its financial problems squarely, as did Governor Rockefeller. Stop borrowing where this can be avoided, and cut costs without cutting services. Were the Mayor really to institute an austerity budget the city could render better services and, at the same time, a substantial sum could be saved our taxpayers.

STANLEY M. ISAACS,
Minority Leader, Council of the City of New York.
New York, April 22, 1959.

Overnight Parking Tax Urged

TO THE EDITOR OF THE NEW YORK TIMES:

Why should the city administration be so hard pressed for money when it can raise $100,000,000 by charging for overnight street parking? The Mayor's refusal to use this source of revenue is a mystery.

If political considerations are responsible, it is poor politics to fail to meet pressing obligations where important city services and employes' salaries are concerned. Besides, overnight parking is still against the law.

The fact is that the city has let overnight street parking get ahead of it. Perhaps this could not be helped because of the rapid increase in the number of car owners. Now let the city turn this undesirable situation to its advantage.

Since no citizen has the legal or moral right to use the public thoroughfare for parking his car, let him pay for the privilege. He has no right to complain. As things stand now city employes like teachers, firemen, policemen and others are subsidizing car owners. It should be the other way around. The revenue obtained from this source will solve many of the city's financial problems. SAUL SIGELSCHIFFER.
New York, April 21, 1959.

Subway Improvement Queried

TO THE EDITOR OF THE NEW YORK TIMES:

If the city is so much in the red that it has to hunt everywhere for additional ways of taxing us, how can the expenditure of so many millions on a new IRT express subway station at Fifty-ninth Street be justified? Secondly, how will it be paid for, if not by still more taxes, or a 20-cent fare?

H. U. S. NISBET.
New York, April 21, 1959.

Fair Trade Called Unfair Pricing

TO THE EDITOR OF THE NEW YORK TIMES:

If Arnold Ross, whose letter was published on April 20, has in mind fair trade prices such as 5 cents for The New York Times, that would be all right. But these fair trade advocates mark a $10 item up to $25 and then call it fair. The sad part of all this fair trade is that it is really unfair pricing. HERBERT SONTAG.
New York, April 22, 1959.

EV

The New York Times
April 28, 1959
Page 1

Truman, in Columbia Lecture, Stresses Political Role of President

The New York Times

Former President Truman addressing students and faculty yesterday in McMillin Academic Theatre at Columbia

By LEONARD INGALLS

Former President Harry S. Truman urged a better understanding of the Presidency yesterday. He gave a lecture based on his esperiences as President to 1,200 students and faculty members at Columbia University. It was an earnest, good-humored and sometimes salty talk. Mr. Truman told his audience, composed mostly of undergraduates from Columbia College, that " I want you to understand the Presidency better than most people do." He emphasized the importance of the President as a political leader. "The President is the only lobbyist that all 160,000,000 people in this country have," he said. Actually, Mr. Truman asserted, the President has not one, but six, jobs. These he listed as head of his political party, chief executive, Command in Chief of the armed forces, maker of foreign policy, top legislator of the country and social leader of Washington.

His discussions of each category were sprinkled with pointed comments and witticisms that delighted his listeners. But the underlying note was a serious one. Mr. Truman explained his mission this way: "If I make some headway in making you understand what you have and

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TRUMAN DEFINES PRESIDENT'S ROLE

Continued From Page 1, Col. 5

what you have to do to keep it, I'll have accomplished something." The United States Government headed by the President, he said, is "the greatest government the sun has ever shone upon."

The lecture was one of three Mr. Truman will give to Columbia. He is scheduled to speak today on "The Constitution" and tomorrow on "Hysteria and Witch Hunting." The lectures are the first of an annual series established in membory of William Radner, a Columbia graduate who died in 1951 at the age of 43.

Mr. Truman spoke for twenty minutes and answered questions from a panel of seven Columbia College students for thirty minutes. Later he held a twenty-minute press conference for students of the Columbia Graduate School of Journalism.

Many Ask Autographs

The former President appeared to enjoy immensely the role of teacher. He was warmly received. Many students came forward to shake his hand or to request autographs in copies of his books.

As he stepped to the lectern in the McMillin Academic Theatre, Broadway and 116th Street, Mr. Truman was greeted with a heavy burst of applause.

Missouri, he said, "has a number of notorious characters, the most notorious being Mark Twain, Jesse James and me. Mark and Jesse are gone and I'm here to fill in."

As the laughter died, Mr. Truman became serious. He stressed the power of the Presidency and at several points advised the students to read the Constitution and the Federalist papers on the subject.

He referred frequently to the President's political role.

"A politician is a man who understands people," he said. "He's got to understand the country. I'm proud to be a politician. It's an honor."

He chuckled as he recalled one aspect of the President's function as Commander in Chief of the armed forces.

"He must know when to appoint generals and sometimes when to fire them if necessary," he said.

Recalls Counterparts

Mr. Truman recalled that James K. Polk "had to do it" and that Lincoln had done it four times.

"One of the fellows he fired ran against him for President. It did not happen in my case," he added.

Mr. Truman relieved General of the Army Douglas MacArthur of all his commands in the Far East in 1951. Lincoln defeated Gen. George B. McClellan in 1864.

As the "top legislator of the country," Mr. Truman continued, the President, "has to make recommendations to Congress."

"He makes a lot of recommendations for the good of the country, and they often tell him where to go, but he has to make these recommendations," he explained.

As the head of his party, Mr. Truman said, the President "must be sure there is party responsibility for the proposals he puts out."

Describing the entertainment of foreign dignitaries, Mr. Truman noted that there were seats for only ninety-nine persons at White House dinners.

"All the dowagers in Washington are always pulling strings to get in on this," he said. "If they're left off the guest list they feel pretty bad. It does them good to be left off sometimes because they behave better."

Has Word for Critics

Reflecting on another Presidential problem, Mr. Truman remarked:

"Sometimes there are a lot of people who think the President doesn't know straight up from crossways and a lot of people try to tell him so. More people in the United States, especially newspaper editors, thought they knew more about running the government than I did."

Toward the end of his lecture, Mr. Truman said he did not know whether he had been "one of the great Presidents."

"But I had a good time trying to be," he added.

In reply to a question, he said the Presidents who he considered had made the greatest contribution to the maintenance of the Republic were Washington, Jefferson, Jackson, Polk, Lincoln, Cleveland, Theodore Roosevelt, Wilson and Franklin D. Roosevelt.

Asked about the delegation of powers by the President, Mr. Truman replied:

"I don't think the power of the President can be delegated without tearing up the Constitution, and I don't want that."

During the question period, Mr. Truman discussed such subjects as the North Atlantic Treaty Organiaztion, relations of the President with a hostile Congress, filibusters and political influences on the President.

On the last, he observed:

"After the President becomes he is President of all the United States and his obligation is to the country."

However, in answer to another question, Mr. Truman stated:

"It takes a politician to be a President, and I am not casting any reflections on anybody."

Discusses Congress

Mr. Truman laughed about his relations with the Eightieth Congress, which was dominated by Republicans. "There are always party leaders and they are reasonable men," he said in explaining that White House conferences sometimes produced bipartisan action on legislation.

"You ought to try to operate with a Congress that doesn't like you—it's a lot of fun," he laughed.

Mr. Truman described NATO as "a very effective organization" and said, "It kept us out of a third world war."

Of filibusters in the Senate, Mr. Truman said, "I've been through some humdingers." He said they were useful in "getting the country lined up" on an issue.

Later, at his press conference, Mr. Truman refused to be drawn out on his preference of a Democratic candidate for President in 1960.

"I'll be at the Democratic convention and maybe they'll call on the old man for a speech," he said. "I'll support whoever is nominated."

Asked to comment on the loss by the Eisenhower Administration of Sherman Adams, former Assistant to the President; George M. Humphrey, former Secretary of the Treasury, and John Foster Dulles as Secretary of State, Mr. Truman replied:

"If I had been President I'd have been very happy to lose those three fellows."

He said he liked Christian A. Herter, the new Secretary of State, "very much." He recalled that when Mr. Herter was a Republican member of Congress he had helped to "put through" the Marshall Plan" sponsored by the Truman Administration.

At a brief ceremony in the office of Dr. Grayson Kirk, president of Columbia, Mr. Truman received three volumes of writings by Alexander Hamilton, a graduate of Columbia. Bound in calf and published in 1810, they are to be placed in the Truman Library at Independence, Mo. The volumes include Hamilton's contributions to the Federalist papers and an essay on neutrality.

Mr. Truman started his day with breakfast at the home of Richard E. Neustadt of 445 Riverside Drive, an Associate Professor of Government at Columbia and a former executive assistant at the White House during Mr. Truman's administration.

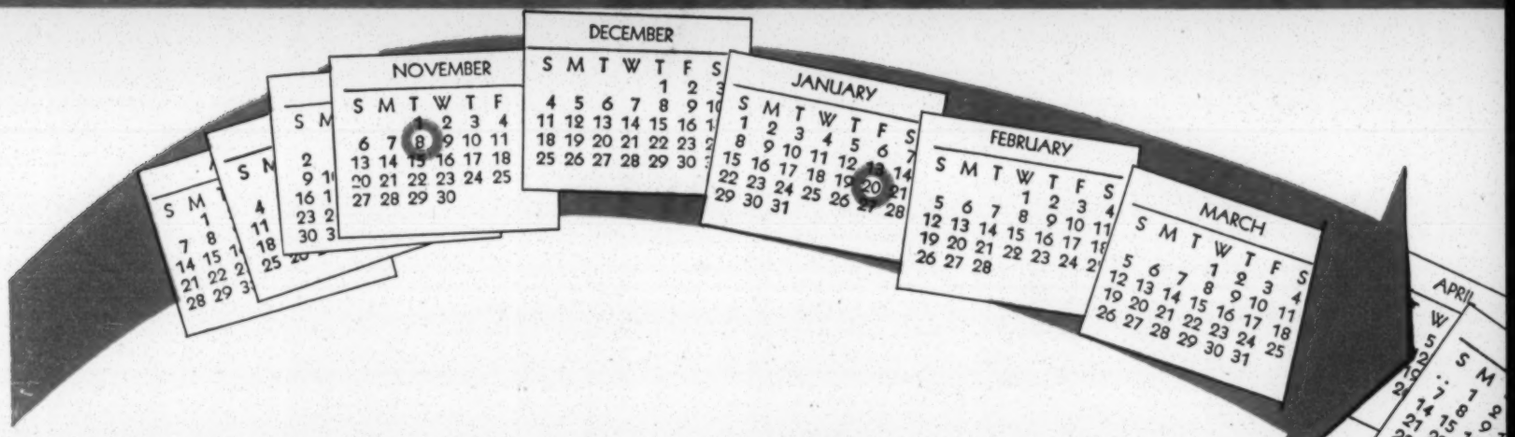
He had uncheon at the Men's Faculty Club with Lindsay Rogers, Burgess Professor of Public Law, and members of the political science faculty. Mr. Rogers and Mr. Neustadt arranged Mr. Truman's appearance as the first Radner lecturer.

The New York Times

FIRST RADNER LECTURER: Former President Truman leaves Low Memorial Library with Dr. Grayson H. Kirk, president of Columbia University. Mr. Truman delivered first of three lectures yesterday at Columbia.

Carnegie Corporation of New York Quarterly

OCTOBER 1960 VOLUME VIII NUMBER 4



Transferring the Presidency

■ Once in the dear dead days beyond recall the country would elect a new President on the first Tuesday after the first Monday in November and then nothing much would happen to the new President or the old one or the country until the following March.

The President-elect generally would go away for a much-needed rest. (Woodrow Wilson went to Bermuda and as the result of a cable breakdown was completely out of touch with the world for five days, which pleased him very much.) He would give some—not necessarily urgent—thought to the composition of his cabinet and other matters. (Again to cite the case of Wilson, his cabinet was not completed until a week before his inauguration; some of its members met each other, and one met Wilson himself, for the first time on inauguration day.)

The retiring President, who of course bore constitutional responsibility until his successor's inauguration in March, remained in Washington, where the main event was the arrival, in December, of the lame duck Congress which had been superseded by the election of a new one just the month before. This Congress often proceeded to enact miscellaneous legislative mischief which bedeviled the last days of the old President and the first days of the new one.

Communications, if any, between the incumbent and his successor were rarely concerned with substantive matters of state. Hence in 1912 we hear the newly elected Wilson asking President Taft's "candid opinion" (which was good) of the White House housekeeper. Eight years later, Mrs. Wilson invited Mrs. Harding to the White House, where the latter was shown "everything but the kitchen and the President." Wilson and Harding did not meet, however, until a notably cool tea that the Wilsons gave for their successors on March 3.

Times Have Changed

All the foregoing is not meant to throw into question the seriousness of purpose of previous Presidents or the gravity of the problems they confronted. It is simply to say that times have changed. In the days when the nation's problems were primarily internal, when transportation and communications were slow, when the federal government embraced a mere handful of personnel, the turn-over from one administration to another could hardly be anything but leisurely. But recent years have been a period in which "big government" has become established, official governmental responsibilities have increased enormously, and—overshadowing all—international developments have created a condition of constant peril. During a 28-year period of rapid change there have been only two changes of administration; and one of those permitted no normal transition period at all, since it took place on President Roosevelt's death during the war.

Thus within a few days we will move, for only the second time in 28 years, into what is a formal period of "transi-

tion"—those now two and a half months (since the passage of the 20th Amendment) between the election of a new President and his inauguration. Informally, the period lasts much longer. In a sense it has already begun, as certain decisions and actions throughout the government begin to be deferred awaiting the outcome in November. And, in fact, the transition period will last well past January 20, as the new President does all the things that must be done to achieve effective direction and control of the Executive Branch: making appointments, organizing staffs, proposing new legislation to Congress. Although the practical problems of the transition will vary in some respects depending upon whether the new President is or is not of the same party as the retiring President, nonetheless there are many areas which are of common concern.

Today's Problems

Under present conditions, the general welfare clearly requires that the transfer of governmental control after the election be handled in a way that maintains the government's capacity for instantaneous, responsible decisions on emergencies of international relations and national security. It must be done in a way that minimizes delays in decision-making and action on other important matters, in a manner that enables the new administration to determine its policy directions with the least possible delay, in a way that avoids unnecessary disruption of the continuing machinery and personnel of the government.

Most previous transitions have been far from satisfactory in these respects. The breakdown in national policy-making in the depression crisis during the transfer from President Hoover to President Roosevelt is familiar history. Fortunately, the transfer from President Truman to President Eisenhower eight years ago had the benefit of an unprecedented amount of advance planning on both sides, and it produced some important and useful innovations in cooperative action, particularly concerning the handling of the budget and certain aspects of foreign and military affairs.

Nonetheless there are only a few relevant precedents to guide both the incoming and outgoing administrations as they confront the enormous problems involved in the transition. The government itself, now as in 1952, is well aware of the difficulties. Last spring, a Carnegie grant was made to the Brookings Institution, an independent, non-profit research organization in Washington, to study the practical problems involved in the transfer of Presidential responsibility.

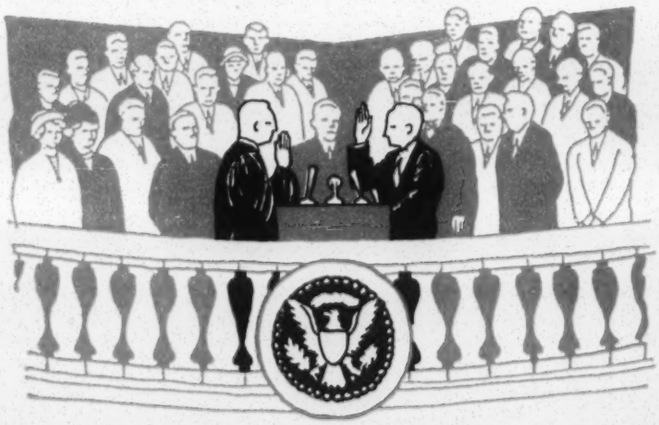
The word "practical" is important in the context, for the policy problems can, it goes without saying, be dealt with only by the President and his advisers. He and they must determine the policy goals, but how quickly and how effectively they can move toward meeting those goals depends to a large extent on how quickly and well they learn to use the institutions and instruments—formal and informal—of government. Only when the President has a firm grasp of the inexorable demands of the calendar, of priorities and timetables, of the resources available to him, can he move decisively to push his program forward.

These latter matters are among the subjects of the Brookings study: priorities the President-elect must meet if he is to be ready on January 20, issues of governmental organization and reorganization, problems of executive recruitment and the Civil Service, and alternative ways in which the President might use the White House staff, the Bureau of the Budget, and other agencies.

In proceeding with the study, the Brookings staff have been guided in part by the history of other Presidential transition periods. Prior to this study, an analysis of the change-overs which took place during this century was made by Brookings staff member Laurin L. Henry. The resulting book, *Presidential Transitions*, will be published by Brookings next month.

The staff have also been guided by the more recent experience of a distinguished advisory committee, under the chairmanship of Robert D. Murphy, composed of men of both parties who have been involved in previous transitions. This committee helped plan the study and reviewed its findings, which will be available to both candidates.

Published results of the Brookings work are due to appear starting in early November. In addition, the Brookings staff have helped prepare several articles for other publications, for a central aim of the project has been to bring about better public understanding of the nature of transition problems in the belief that this will lead to valuable public support of our elected officials as they carry out the change of command in Washington. And the Brookings staff will keep in touch with the events of this transition as they unfold, so that the highlights of the 1960-61 experience will be available "next time."



It's Not Bohemia or the Beard That Makes the Poem, It's the

By DONALD HALL

LAST winter I went to a party that included twenty-six of the leading American poets under 34 or thirty-four under 26—I couldn't get it straight. My hostess introduced me to a young man who was not one of this number, but who aspired to it. He asked me if I thought that San Francisco was done for. I told him that Allen Ginsberg was in New York, I had heard, and Gregory Corso in Paris. He said that still left Kenneth Rexroth, and I agreed. Then he started to ask me about graduate schools that offer Poetry Workshops, about which I knew even less. Apparently my answers were discouraging.

Mr. Hall, who teaches English at the University of Michigan, is the author of several volumes of verse, the most recent being "Dark Houses."

He shook his comfortable head and said, "Schizophrenia is the thing! But you can't just up and be schizophrenic, now, can you?"

In every generation, there are accepted poetic roles; the 49'ers of poetry rush to the scene of the latest strike, and they pan dust from the crowded stream, but the rest of the world always decides that it is iron pyrites. There are many poets in the workshops at the Universities of Iowa and Washington, and it is true that any judicial list of the best young poets will include a good proportion who have attended one of these institutions. Yet if you look closely at what is produced at these workshops at any given time, of course, 90 per cent of the constituents are writing drivel.

These students are attempting to write poetry by doing what they have heard that other poets have done; yet no teacher, however good, can teach very much about writing poems. They are like the poor chaps who flew to San Francisco when Time magazine announced the discovery of the Mother Lode, and who now wander among the bars in beards, knowing that they were too late again, looking for a charitable jazz combo who wouldn't mind a free-verse solo. Many would-be poets have drifted from one extreme to the other, from Iowa to Greenwich Village to Algiers to Ann Arbor. They look for the answer; they try to be poets.

NEITHER bohemianism nor graduate school is going to make anyone a poet, nor will either prevent anyone from writing the best of which he is capable. A poet will do whatever he does for its own sake, not because he believes that habits or surroundings will make him a poet. At least everyone who opens his eyes can see that good poets have been married and unmarried, homosexual, heterosexual, bi-sexual and without discernible sex, anarchists and salesmen, Republicans, thieves, Democrats and Presbyterians. Any quality which can be suggested by a phrase can predict nothing of the value of a man's poetry.

Of course a man's beliefs are utterly relevant to his poetry, but beliefs are subtler than the tags of journalists or sociologists or blurb writers. We can insist with conviction that a man's habits must affect his poetry (whatever comes out has gone in), but only in the same tautological sense that we can say that what he eats affects his poetry. Since it is impossible to predict how a way of life will affect poems, or to prove even with hindsight that an effect is the result of a particular cause, the proposition is trivial.

Only certain types of behavior, of course, are acceptably poetic. Dylan Thomas will remain in vogue as long as someone in the crowd can tell stories about him, yet no amount of drinking at the White Horse will make a man a Welsh poet. For most bad poets, poetry is itself a form of behavior. For the bad bohemian, it is one more item in his careful list of nonconformities, along with his beard and his clothing. For the bad academic poet, poetry is a way of being elegant, witty, superior and of having a longer bibliography than the next man. Of all the imitations of poetic behavior I have ever observed, I have never known a young symbolist to follow Wallace

PAGINATION INCORRECT

Secretaries Come and Go but the Cabinet Remains the Same

THE PRESIDENT'S CABINET. By Richard F. Fenno Jr. 370 pp. Cambridge: Harvard University Press. $5.50.

By WILFRED E. BINKLEY

ONE gets the impression from this study that the President's Cabinet is what it is and not much can ever be done to change it. This is, of course, what might be expected from a product of nothing but custom—for, as a council, that is exactly what the Cabinet is. Councils have been a natural phenomenon since the dawn of history; they enable the chief, the President in this case, to sound out the sense of the several constituencies represented in the council as to whether or not they will "go along" with the chief's major policies. But the very pluralism of American society has thwarted the efforts of every President to maintain a continuous Cabinet coherence.

Mr. Binkley is Professor of Political Science at Ohio Northern University and author of "The Man in the White House."

Thus President Wilson's Secretary of War L. M. Garrison told Secretary of the Navy Josephus Daniels: "I don't care a damn about the Navy and you don't care a damn about the Army. You run your machine and I'll run mine." The ominous silence of the other members of the Harding Cabinet as to the conduct of Albert Fall and Harry Daugherty, which ultimately landed one of them in a Federal penitentiary and forced the other back into private life, highlights the absence of collective Cabinet responsibility. "With respect to all its possible functions," concludes Richard Fenno, "the group's performance has been haphazard and its success has been sporadic."

No President has done more to institutionalize the Cabinet than Eisenhower. For the first time in American history it has a secretariat, one of whose functions is to provide an agenda for Cabinet meetings. But the Cabinet is a natural product of deep-seated forces in American society, and Eisenhower is discovering that it stubbornly resists manipulation. The secretary has difficulty getting items for the agenda. The members don't want their problems thrown into the hopper. If anything, the secretariat has accentuated the members' tendency to safeguard jealously the "independence" of departments by silence in the Cabinet meetings. Thus is promoted the custom of members huddling around the President after the meeting seeking private conferences on matters they did not want to air in the meeting. Cabinet meeting "leaks," to the embarrassment of members, have further restricted the introduction of departmental problems into the collective discussions. Departmentalism apparently cannot be eliminated.

THE difficulty of maintaining Cabinet coherence is due to the fact that, although the Cabinet exists under the influence of the President, its members "are inextricably involved in the activities of the Legislature, the bureaucracy, the political parties, and the political interest groups." Whatever its other shortcomings, the Cabinet can and usually does serve the President best as a sounding board reflecting the sense of the constituencies of the several departments on Presidential policies.

The Postmaster General and the Attorney General have come to represent the President's party in the Cabinet; the Interior Department the public domain and the interests that would exploit it; the Treasury, the bankers and finance; the Agriculture Department primarily Midwest farming. Theoretically the Department of Commerce was created to serve the interest of the American people in commerce, but actually its solid basis of power is the influence of the National Association of Manufacturers and the Chamber of Commerce. The State Department, however, represents

(Continued on Page 21)

NYT Book Rev.

THE DEATH OF A PRESIDENT
BY
WILLIAM MANCHESTER
PART ONE

DESPITE obvious differences in temperament and style, John Kennedy and Lyndon Johnson shared one grand passion—politics—and in the autumn of 1963, a political issue was about to take the President and his Vice-President a thousand miles from Washington, into deepest Texas.

They had no choice but to go. The state's Democratic party was rent by factionalism. Gov. John B. Connally, Jr., and Sen. Ralph Yarborough were stalking one another with shivs. In 1960, the Kennedy-Johnson ticket had carried Texas by an eyelash. If the Governor and the Senator didn't agree to a truce soon, the national ticket wouldn't stand a chance there next fall. No Presidential leader writes off 25 electoral votes easily, so Kennedy was obliged to step in and patch things up. He had to make a real production of the trip, with Connally, Yarborough, Johnson and himself appearing together in public and in apparent harmony. The prospect was unappetizing and vexing to the Chief Executive. It appeared to him that Johnson ought to be able to resolve this petty dispute himself; the trip seemed to be an imposition.

Actually, Johnson's problems were authentic. Politically, he had become a cipher because he lacked a power base. The chasm between the President's oval office and Vice-President Johnson's across the street on the second floor of the Executive Office Building was enormous. Newspapermen were aware of every move the First Family made. The second family was largely disregarded. Mrs. Johnson had never seen the inside of the famous Presidential plane, Air Force One. If Johnson wanted to use a plane, he had to apply to the President's Air Force Aide, Brig. Gen. Godfrey McHugh, and sometimes—mortifying to a man of his extreme sensitivity—the request was denied. Moreover, LBJ had now become aware of groundless but persistent rumors that he might be dropped from next fall's ticket.

For Kennedy, the Texas trip brought but one consolation: His wife was going to accompany him. Her decision had come as a surprise. In the summer of 1963, Patrick Bouvier Kennedy had died in an oxygen chamber of a Boston hospital 40 hours after birth. The blow to the parents had been staggering. All fall, Jacqueline Kennedy's convalescence had been the chief concern of her husband's private life. And afterward, after the terrible tragedy in Dallas, she would remember how she had told him, "There's just one thing I couldn't stand—if I ever lost you. . . ." Her voice had drifted off, leaving the unthinkable unspoken, and he had murmured reassuringly, "I know, I know."

She had wanted to stay with him and the children. He had a different plan: She should forget herself in other lands. His mind was made up, so she went, and the separation became a strange hiatus between tragedy and tragedy. She wrote him ten-page letters punctuated with dashes, as in everything she wrote. She told him how much she missed him; of her sorrow that he could not, at the moment, share with her the tension-free atmosphere of the Mediterranean.

To her astonishment, the thing worked. Everywhere, she was feted, and those weeks were a spectacular diversion. She returned on October 17 in far better spirits than she had thought possible. At the time of Patrick's death, it had been announced that she would rest until January 1. Now, Dr. John Walsh, her obstetrician, felt her recovery was complete, so she decided to reappear sooner.

"We'll campaign," she told the President. "I'll campaign with you anywhere you want." And when he asked her whether that included the expedition with Lyndon, she flipped open her red-leather appointment book and scrawled "Texas" across November 21, November 22 and November 23. Kennedy was delighted.

He was also nervous. He was afraid that later she would regret having gone. He wanted her to enjoy this trip so she would make others. And he was determined that his wife should look her best in Texas. For the first time in their marriage, he asked her what she intended to wear. Dallas especially interested him. "There are going to be all these rich Republican women at that lunch, wearing mink coats and diamond bracelets," he said. "Be simple—show these Texans what good taste really is." So she tramped in and out of his room, holding dresses in front of her.

"If it's so important that I look all right in Dallas," she asked him, "why do I have to be blown around in a motorcade first?" He explained: Exposure, like patronage, was a source of political strength. You had to be seen. You had to move through crowds. And you had to move slowly.

Twice on the day before their departure for Texas, he telephoned Pamela Turnure, his wife's press secretary, to discuss the First Lady's hair. Pam suggested putting the bubble top on the car. No. Barring rain, they had to be easily seen. He and Pam discussed women's hats until the President, out of his element, reduced it to a joke. "Take a 45-minute drive around Washington in an open car with Dave Powers," he ordered. "See what you look like when you come back."

That was on Wednesday, November 20, 1963. Robert Kennedy later remembered that his brother's manner then—as, indeed, for the ten previous days—had been often gloomy.

Certainly he had been saturnine that Tuesday morning. The children were at Atoka, Va., with their mother, cutting school, so he had missed

continued

ABOUT THE AUTHOR: THE DEATH OF A PRESIDENT, *a forthcoming selection of the Book-of-the-Month Club, is William Manchester's eighth book. In addition to four novels, he has written* DISTURBER OF THE PEACE: THE LIFE OF H. L. MENCKEN, A ROCKEFELLER FAMILY PORTRAIT, *and* PORTRAIT OF A PRESIDENT, *and is now completing a major study of the German armaments family, the Krupps. Born April 1, 1922, in Attleboro, Mass., Manchester received his BA from the University of Massachusetts and his MA from the University of Missouri. After serving with the U.S. Marine Corps in the Pacific during World War II, he became a foreign correspondent for the Baltimore* Sun. *A fellow of the Wesleyan University Center for Advanced Studies, he lives in Middletown, Conn.*

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his French lesson. This was a closely guarded secret. The President had decided that the most effective way to tackle Charles de Gaulle would be to learn his language—*really* learn it—and then negotiate in it. His teacher was Caroline's French teacher. Since September, she had been tutoring the President mornings in the Mansion.

"How long do you think it will take me?" he had asked Madame Jacqueline Hirsch at the outset. "A year," she had replied. He couldn't resist the challenge: "I bet I do it in six months."

But there was no lesson on this Tuesday. So he stalked over to the office, which was soon crackling with one appointment after another. Press Secretary Pierre Salinger entered. At midnight, Pierre would fly to Honolulu with Dean Rusk and McGeorge Bundy for a Vietnam council of war; then he, Rusk and five other Cabinet members would proceed to Japan. The press believed Pierre's trip was a joyride. It wasn't. Kennedy hadn't forgotten his predecessor's Japanese fiasco, when leftist riots had forced Eisenhower to cancel a call there. He meant to restore American prestige in Japan with a February visit. Pierre's job was to set things up. . . .

Dusk gathered in the Rose Garden, night fell, and the appointments continued on and on. Mrs. Kennedy was still at Atoka, but the children were now back. When the last visitor of the day had departed, he took the children for a swim in the pool, and retired after dinner to an evening of paper work in the oval study on the second floor of the Mansion. There were the drafts of the Texas speeches; personal matters; and new items of political significance, for 1964 pressures were building up month by month. He had a strong hunch that the GOP would yield to its death wish and nominate Barry Goldwater, but he couldn't count on such fantastic luck, so he was planning a maximum effort. If Goldwater became the sacrificial lamb, so much the better; he would vanish in a historic landslide. The President was confident of a smashing reelection. Before he left office, he felt, he would be the senior statesman of the West, perhaps of the world, and he was already planning the second Kennedy Administration. His brother wanted to bow out as Attorney General. Then there was Douglas Dillon, who wanted to leave the Treasury. And there was Rusk. Aware that the President intended to be his own foreign minister, Rusk had leaned on him increasingly in other ways. After the second Inaugural, the Cabinet would almost certainly be headed by Secretary of State Robert McNamara. Bobby had tentatively decided that once Rusk had left, he would ask to be Assistant Secretary for Inter-American Affairs. But the Cabinet reshuffle could wait. . . .

His first meeting on Wednesday was breakfast with the legislative leadership. Sen. Hubert Humphrey of Minnesota and House Whip Hale Boggs of Louisiana said they were disturbed over reports that there might be trouble in Dallas. Kennedy said the thought that an American President would not go into *any* American city was simply unacceptable. "Mr. President," Boggs said half-jokingly, "you're going into a hornet's nest." Kennedy replied absently, "Well, that always creates interesting crowds."

Texas *would* be rough. Here, as elsewhere, the national leadership did what it could to keep the peace. But Texas scorned peace. Each county was an autonomous duchy, each was faction-ridden. They were political cannibals, and a naïve outsider venturing among them could be eaten alive. Kennedy was not naïve. At the Los Angeles convention of 1960, where Johnson had attempted to wrest the Presidential nomination from him, Kennedy himself had been smitten by Johnsonian partisans, who had spread rumors that he would not live out his first term because he was "diseased." (After Los Angeles, they blandly explained that they had been referring to Addison's disease.) Connally had consented to the coming trip, and for two weeks, guides from the Democratic National Committee had been scouting the most treacherous marshes.

The President was only vaguely aware of the details of the blazing feud between Connally and Yarborough. Yet it was an old one, older than the feuders themselves. Its origins were ideological. In the '30's, the rightist Jeffersonian Democrats and Texas regulars had bolted FDR. In 1944, they sent a rival delegation to the National Convention. In '52, they deserted Adlai Stevenson. Encouraged by Sam Rayburn, moderate Byron Skelton, an attorney, had accepted the post of national committeeman.

The populist heirs had staged an uprising of their own, forming a liberal faction called the Democrats of Texas (DOT). DOT's hero was Ralph (Raff) Yarborough, who ran three unsuccessful campaigns before becoming a U.S. senator in 1957. Raff was forever squabbling with other Democrats. Nevertheless, he was the only Texas liberal to hold statewide office. In Los Angeles, when the rest of the state party rallied to Johnson's favorite-son candidacy, he supported John Kennedy. They punished him by refusing him a seat in the Texas delegation; the Senator had to sit in the gallery as a spectator. Reprisals would have gone farther, but Rayburn intervened. Then, a year later, he died. His calming influence vanished. The rightists were free to gang up on the populist maverick. Furthermore, they now had a leader cut from whipcord. Johnson had never won their complete trust. His loyalties were uncertain. John Connally, however, was a priceless gift. Connally had been Johnson's administrative assistant and Kennedy's Secretary of the Navy, and now he was his own governor. Outsiders still thought of him as a Kennedy-Johnson man. They were mistaken. His conservatism, like Yarborough's liberalism, was genuine.

The Governor was a classic example of the poor boy who has risen above his origins and despises them. Connally had acquired suavity and guile. He first became the friend of wealthy men and then their staunch ally. Studying the hardship of the Texas poor had made Ralph Yarborough an adversary of those whom he regarded as responsible for it. Indigence itself was John Connally's enemy. As Johnson said privately, Connally felt comfortable only in $300 suits and custom-made shoes, and in the company of other men wearing them. The wall between him and his dire boyhood could never be thick enough. As Governor, he had carefully disassociated himself from the liberals in Washington. He went all out for conservatism. And like the President, he had his eye on the coming election. Barring primary upsets, Connally and Yarborough would be campaigning with Kennedy and Johnson. The Governor wanted to run ahead of the ticket. He wanted Yarborough to lose, and with that in mind, he planned to make political capital out of the forthcoming Presidential tour.

As chief executive of the state, he would be host to the national Chief Executive. Presidential aide Ken O'Donnell and his colleague, Larry O'Brien, told all parties concerned that the Governor was being "dealt a big hand." The first inkling of how he intended to play that hand came early in October. Before flying East to discuss details of the trip, Connally conferred in Dallas with the city's power elite—J. Erik Jonsson, chairman of the powerful Citizens Council; Robert Cullum, president of the Chamber of Commerce; R. L. Thornton, chairman of the Mercantile National Bank; Joe Dealey, son of the publisher of the Dallas *Morning News* (his father was absent in Washington); and Albert Jackson of the Dallas *Times Herald*. In effect, the Governor apologized for the President's visit. He himself was in a bind, he said. He couldn't tell the Chief Executive *not* to come. But he wanted them to know that he had no intention of becoming "Kennedy's errand boy." Indeed, if he used the occasion to humiliate Yarborough, Texas liberalism might be crushed. He said, "I've got to have a nonpolitical body to represent Dallas, and you gentlemen are it by your associations."

In the Capital, on October 3, he called a meeting of Texans on the Hill—Yarborough was not asked—and told them that the President wanted to visit San Antonio, Houston, Fort Worth and Dallas. Kennedy's strength in Texas, as Connally saw it, was among "Negroes and brass-collar Democrats." Unfortunately, they were poor, and the national leadership wanted the journey to be a fund-raising drive. "The people who are for Kennedy are people without money. I've checked with businessmen. They aren't about to contribute to his campaign." Henry Gonzalez, the San Antonio liberal, broke in. "What businessmen did you talk to?" he asked angrily. "If they're the ones you've been appointing, I wouldn't expect them to be for Kennedy, because they are a bunch of Republicans. I'll get you businessmen. You may not like them, though, because they won't support you." The Governor stuck to his theme. The following day, he took the same line with Kennedy: Keep the Presidency above politics. It was absurd. The Presidency *is* politics. Kennedy's difficulty was that he couldn't alienate Connally; if a ceremonial tour would give the appearance of a united Democratic front in Texas, he would settle for that.

On October 20, Senator Yarborough re-

minded the White House that he had a record of unwavering devotion to Kennedy. Was he to be snubbed in his home state? If so, he preferred to brood in Washington. He was reassured. For Kennedy, a trip without Yarborough would be worse than no trip at all. There would be indignation among the Texas liberals, and retribution in the campaign to come.

Connally, meanwhile, had been busy spinning his intricate webs. Jerry Bruno, advance man for the Democratic National Committee, learned of one Connally scheme to put Senator Yarborough in his place. The details are important because they involve the choice of the site where the President would speak in Dallas and, as a consequence, the motorcade route he would take.

There were three major choices: the Women's Building, Market Hall and the Trade Mart. Bruno preferred the Women's Building. It was rather drab, but it would attract working people. However, it developed that the low-ceilinged structure was unsuitable for one of Connally's schemes. In Dallas and in Austin, he wanted two-tiered head tables. The President, the Vice-President and the Governor would sit at the top table. Lesser officials—such as the state's senior senator Yarborough—would be relegated to the lesser table. It was within Bruno's power to make a final decision on the spot. Had he insisted on the Women's Building, the Dallas motorcade would not have passed beneath the Texas School Book Depository. Because he hesitated, the matter remained unsettled. The Secret Service regarded all three sites as acceptable. The issue was bucked up to the White House, where the policy was still to appease Connally. On November 14, O'Donnell opted for the Trade Mart, though the two-tiered head table was rejected. (The Warren Commission reported that the luncheon site was selected by the Secret Service with O'Donnell's approval. This is incorrect. The decision was a political decision, made by politicians. Bruno was among the witnesses whom the Commission did not summon.)

The Governor was content. The stratagem would be just as effective in Austin, where he also planned a reception for the President, with no invitation for Senator Yarborough.

CHAPTER TWO

ALL MONTH, the leonine Democratic national committeeman from Texas, Byron Skelton, had been troubled by a premonition. Now in his late fifties, he was the epitome of Southern respectability, and three years earlier, he had played a leading role in staging the historic confrontation between Roman Catholic Kennedy and skeptical Protestant preachers of the Greater Houston Ministerial Association. Skelton's performance in Houston had earned the respect and gratitude of the President. Now, however, the atmosphere in Dallas had become so highly charged by inflammatory statements that Skelton was genuinely concerned. On November 4, he decided to act. "Frankly," he wrote the Attorney General, he would "feel better if the President's itinerary did not include Dallas."

Two days later, he wrote Walter Jenkins, Lyndon Johnson's right-hand man, expressing further misgivings about the city, and to make certain he had touched all bases, he flew to Washington and talked to Democratic National Chairman John Bailey and Jerry Bruno at the National Committee. The upshot of all Skelton's efforts was an enormous zero. On November 8, the Attorney General, who knew him and took him seriously, forwarded his letter to O'Donnell, but Ken decided it was an unsupported hunch.

No one, including Byron Skelton, dreamed that Kennedy would be killed in Dallas, though there were many who feared that he might be embarrassed. The Dallas mood was no secret. The most casual newspaper readers knew that it had a history of ugly incidents. In the 1960 campaign, a mob of Dallas housewives had sprayed the Lyndon Johnsons with saliva. More recently, UN Ambassador Adlai Stevenson had been assaulted on UN Day, October 24. The following day, Presidential assistant Arthur Schlesinger, Jr., telephoned the Ambassador. Stevenson said he had been shocked by the hatred in Dallas. He seriously wondered whether the President should go. He later called back to withdraw his objections. Since leaving Dallas, Schlesinger concluded, Stevenson had regained his perspective.

Perhaps it was just the other way around. The closer an observer was to Dallas, the graver was his concern. Presidential advisers who knew Dallas by reputation thought there might be a few boos. Perhaps the most clear-cut warning to the President himself came from Sen. J. William Fulbright of Arkansas, a liberal from a state that borders Texas. Because of the city's history of political violence, he deeply distrusted it. He was afraid—physically afraid—and he readily admitted it. On October 3, the day before Kennedy's final planning conference with Connally, Fulbright pleaded with the President to bypass Dallas: "Dallas is a very dangerous place. *I* wouldn't go there." And, "Don't *you* go."

In Dallas itself, there was genuine alarm. Both newspapers ran editorials calling for restraint. Police Chief Jesse Curry publicly put Dallas on notice that his department would take "immediate action to block any improper conduct." He drew on every available reserve. The city glittered with badges.

There was a chorus of warnings. And then, there was a catastrophe. Between the two lies an abyss that can never be adequately explored. Ten months after the tragedy, the Warren Commission found "no evidence" of any connection between the crime of Lee Harvey Oswald and the city's "general atmosphere of hate." The finding was a consensus. Individual commissioners had strong reservations. The verdict was influenced by expediency. The Commission's members hoped their report would receive the widest possible acceptance. A majority believed that conjecture about Dallas might tend to discredit their other findings. Therefore, they hedged. They acknowledged that the assassin had known of Dallas's political tension, but concluded that there was "no way to judge what the effect of the general political ferment present in that city might have been, even though Oswald was aware of it."

The key word here is "judge." Obviously, it is impossible to define the exact relationship between an individual and his environment. If we discuss it, we are speculating. But legitimate speculation is one of the duties of historians. Their sources cannot be confined to fingerprints, ballistics tests and spectrographic examinations. To be sure, the Dallas assassin did not belong to a conventional criminal conspiracy. Lee Oswald was called "a loner." But nearly everyone seized upon the word to describe him and also to explain him. They were all wrong. It is true that he had a one-track mind. The mind of every assassin runs on a narrow-gauge track. Yet no man lives in a void. His every act is conditioned by his time and his society. John Wilkes Booth was not an agent of the Confederacy. Despite early assumptions, he had acted on his own. But his victim was murdered at a critical hour in our history, in a city swarming with Southern sympathizers and hardened by seditious talk. Establishing the precise link between deed, era and locale is a hopeless task, yet to suggest that there was no relationship—that the crime in Ford's Theatre could have been committed in a community untroubled by crisis—is ridiculous.

In the third year of the Kennedy Presidency, there was something in Dallas unrelated to conventional politics—a disease of the spirit, a shrill, hysterical note suggestive of a deeply troubled society. Texas led the United States in homicide, and "Big D" led Texas. There were more murders in Dallas each month than in all England. Furthermore, nearly three out of every four slayings (72 percent) were by gunfire. Big D had no requirement for firearms' registration. Before November 22, there had been 110 murders committed in Dallas in 1963.

Dallas had no corner on Presidential hate. But it was the one American metropolis in which incitement to violence had become respectable. The origins of its implacable hostility to the New Frontier lay in a profound longing for the values, real and imagined, of the old frontier. No one could honestly depict John Kennedy as a plainsman. His private wealth and starchy New England vowels were bad enough. The ultimate outrage, however, was his challenge to Dallas's tribal instincts. The President was a thoughtful man. On yesterday's frontier, the man who paused to think didn't survive. Kennedy called for diversity, tolerance, nonconformity. In pioneer society, everyone stuck together and circled the wagons against the Indians. So the Eastern stranger was a

continued

SECRET SERVICE CODE—NOVEMBER, 1963

Castle—The White House
Charcoal—The precise location of the President at any given moment, during a trip
L's FOR THE PRESIDENT AND HIS FAMILY:
Lancer—President John F. Kennedy
Lace—Mrs. Jacqueline Kennedy
Lyric—Caroline Kennedy
Lark—John Kennedy, Jr.
V's FOR VICE-PRESIDENT AND HIS FAMILY:
Volunteer—Lyndon B. Johnson
Victoria—Lady Bird Johnson
W's FOR STAFF:
Wand—Ken O'Donnell, Lancer's chief vassal
Willow—Evelyn Lincoln
Wayside—Pierre Salinger
Warrior—Mac Kilduff
Watchman—Maj. Gen. Ted Clifton
Wing—Brig. Gen. Godfrey McHugh
Witness—Capt. Tazewell Shepard
D's FOR SECRET SERVICE MEN:
Digest—Roy Kellerman
Dazzle—Clint Hill
Deacon—Floyd Boring
Debut—Paul Landis
Drummer—Lynn Meredith—kiddie detail
Dresser—Bob Foster—kiddie detail
Dasher—Tom Wells—kiddie detail

threat. Moreover, the germ of piety was very real, and the thunder of moral indignation is clearly evident in the editorials of the Dallas *Morning News*, whose anti-Administration crusade was the key to Big D's absolutism.

The publisher and chairman of the board was E. M. (Ted) Dealey, a heavy man with green-tinted spectacles who also owned Dallas's television station WFAA. Under Dealey's leadership, the *News* had made radical excesses reputable in the early 1960's. In the two months before the Presidential trip to Texas, his paper was mounting an all-out assault on John Kennedy to blacken his name.

BEFORE BREAKFAST on Thursday, November 21, the President drew on his back brace, laced his shoes, the left one of which had a quarter-inch medical lift, slipped into the clothes his valet had selected, anchored his conservative tie with a bright PT-boat clip and pocketed a black-leather wallet with $26 in bills and a gold St. Christopher medal that was fastened to it. He looked like a successful, confident American father about to embark on a crucial business trip, which is precisely what he was.

"Caroline!" he called. "John!" They came running: John in plaid shorts, Caroline in a blue leotard and a blue-velvet dress. Their mother was having her hair combed, so they had him pretty much to themselves at breakfast, babbling excitedly as he riffled through the newspapers. At 9:15, the President's daughter had to go to school. She embraced him, whispered, "Bye, Daddy" ("*Bye, Caroline*") and was gone.

In the West Wing, the President rang for his secretary, Evelyn Lincoln. "How about this weather report?" he asked. He waved Brig. Gen. Godfrey McHugh's forecast. "I want that checked." At 10:42 a.m., she came back with bad news. The next two days in Texas would be hot. "Hot?" Kennedy cried in dismay. He lunged for his telephone and dialed his wife's maid's extension. "Pack some cool dresses," he said urgently. But it was too late; the dresses were already in the helicopter. Kennedy hung up and swore mightily under his breath. All his precautions to make certain that his wife would have a good time—and now, debacle. He pictured her riding in the Dallas motorcade, perspiring in that pink suit. McHugh had blundered; he had promised cool weather. He had mobilized every veteran meteorologist in the Government, had assembled reports from the U.S. Weather Bureau, from Andrews Air Force Base and from the weather bureau at the Chief Executive's destination. Data had been accumulated on the present and on the predictable future. It was all very military. Unfortunately, it didn't work. Kennedy's blood was up. He dialed McHugh's extension, chewed him out, and summoned O'Donnell.

"Damn it, Kenny, let's check with local airports from now on," he stormed. "Or let Mrs. Lincoln do it. She's accurate. She's also cheaper." He swore again. "Hot. *Hot*. Jackie's clothes are all packed, and they're the wrong clothes." A third oath. He rose and left the office.

On the Mansion's second floor, he met his wife's maid. "Get John," he said. "I want to take him with me." In moments, the delighted little boy was snug in his tiny London Fog raincoat and sou'wester, which actually resembled a miniature Army fatigue hat. At the helipad, most of the Texas party had already gathered, together with a handful of well-wishers who had strolled out from West Wing offices to see them off. Evelyn Lincoln, Military Aide Maj. Gen. Ted Clifton and three agents were already aboard helicopter No. 1. Young John joined them. Presidential physician Dr. George Burkley was on No. 2; Assistant Press Secretary Mac Kilduff was in No. 3 with reporters of the White House press pool. Kennedy, bareheaded in the drizzle, vaulted into No. 1. Out of the Rose Garden, Mrs. Kennedy appeared. She scrambled aboard in a two-piece white wool-*bouclé* dress and a coat—just the thing for a chilly day. Her husband took a sharp breath and glared at McHugh. The rotors began to spin. . . .

IN THE AUTUMN OF 1963, the White House telephone number was still NAtional 8-1414, and when the man of the house was home, communications were relatively simple. But the moment the Chief Executive left his helipad, all that changed. Elaborate security precautions went into effect. Even names were altered. Code replaced them. From time to time, names and groupings were changed. One man who was Porter (P) in November, 1963, later become Super (S) and then River (R). The White House was no longer the White House. It was Castle, and during a trip, the precise location of the President at any given moment was Charcoal. He himself was no longer John Kennedy. He was Lancer, who was married to Lace, whose children were a daughter named Lyric and a son named Lark. The First Family was all in the L's—though Lyric's and Lark's grandmother lived in a Georgetown house that was referred to as Hamlet. Secret Service men were in the D's. W's were for staff. V's were reserved for the Vice-President and his family. Lyndon Johnson was Volunteer; Lady Bird, who had never had much luck with names, became Victoria. Tourists thought of the President's home as stationary, at 1600 Pennsylvania Avenue. They were wrong. The White House was wherever Lancer happened to be, and when he traveled, the key switchboard was a jungle of color-coded wires in the Executive Mansion's east basement, manned by elite Signal Corps technicians of the White House Communications Agency.

At Andrews Air Force Base, chopper No. 1 settled down beside the immaculate splendor of Air Force One, Aircraft 26000. John's mother and father hugged him. "I want to come," he told his father. "You can't," the President said gently. The little boy began to cry. The President kissed his son for the last time and patted the trembling shoulders in the small raincoat. Then he looked at the agent who would be staying behind. He said, "You take care of John, Mr. Foster."

EARLIER THAT MORNING, 5,000 cheap handbills had appeared on the streets of Dallas. At the top were two offset photographs of the President, one full face and one in profile. The effect was that of a Bertillon police poster. The headline read:

WANTED FOR TREASON

"THIS MAN," the dodger declared, "is wanted for treasonous activities against the United States," and it offered a seven-point bill of particulars. Any hater, left or right, could find fuel in it.

Its significance may be exaggerated, however. There was no connection between the President's assassin and its printers. And Kennedy's Dallas enemies were already aflame anyhow. W.E. Greiner Junior High School announced that students could go to tomorrow's motorcade provided their parents came for them. One teacher told her pupils: "Nobody here will be let out for that parade. I don't care if your whole family shows up. You're not going, I'm not going, period." She smiled faintly, a smartly dressed young woman in her mid-twenties. "If I did see him," she said, "I'd just spit in his face."

An hour later, the first edition of the after-

continued on page 47

Rebel 550 Sports Sedan: more excitement machine for your money!

Now—the first excitement machines in the intermediate-class storm ahead—with styling, size, performance, and innovations that are leaving other intermediates way behind! Look quick at the Rebel 550 2-door Sports Sedan above and you'd swear it's an SST hardtop. Look at its price sticker and you'll see it's the lowest-priced Rebel in the line! And when you peel off the sticker, who'll know? Up front, you can order Typhoon V-8 thunder, available at 290 and 343 cubic inches. And, if you're so inclined, you can team up either one of those mighty V-8s with a butter-smooth 4-on-the-floor stick shift. Down below, there's a newly developed wide stance that tracks like a train, and a 4-link rear suspension to gentle rough roads. Out back, there are rear side wink lights that glow in the dark. Inside, there's more people-room than any other car in its class. And it's all mounted on a nimble 114" wheelbase.

Safety in the excitement machines. Every 1967 Rebel includes the long-awaited energy-absorbing steering column as standard equipment. In addition, there's the three-spoke deep-dish wheel; Double-Safety braking system with warning signal light; 4-way flashers; seat belts front and rear (retractable in front); and more built-in safety features to help you drive with care and confidence...all built into a solid, single-unit body. Choose from Rebel SST hardtop or convertible; 770 hardtop, sedan or wagon; 550 sedans or wagon. There's an excitement machine that's right for your money at your **American Motors/Rambler Dealer.**

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READ HOW YOUR INVESTMENT IS PROTECTED BY THIS GREAT NEW WARRANTY: 5 years or 50,000 miles on engine, drive train, suspension and steering—2 years or 24,000 miles on all other parts. American Motors Corporation warrants engine block, head and internal parts, water pump, intake manifold, transmission case and internal parts (except manual clutch), torque converter, drive shaft, universal joints, rear axle housing and internal parts, front and rear suspension (except shock absorbers and attaching parts), steering pump, steering gear assembly, steering linkage, wheel bearings and road wheels of its 1967 cars to be free from defects in material or workmanship for 5 years or 50,000 miles. † Owner must, every 4,000 miles or 6 months,† change engine oil and install new oil filter; every 4,000 miles, clean oil filler cap (filter type), clean carburetor air cleaner element, inspect and correct fluid levels, drive belts and exhaust manifold heat valve; every 12,000 miles, service positive crankcase ventilation and exhaust emission control systems; every 24,000 miles, tune automatic transmission, replace carburetor air cleaner element; every 2 years, replace engine coolant; every 32,000 miles or 3 years, † inspect and lubricate chassis; and every 6 months, furnish evidence of this service to an authorized American Motors Dealer and have him certify its receipt and car's mileage. Further, entire car is so warranted for 2 years or 24,000 miles, † except tires (warranted by tire manufacturer). Any part so defective, will be repaired or replaced in accordance with applicable portion of the Warranty, without charge at an authorized American Motors Dealership. Owner responsible for deterioration, misuse and normal maintenance, replacement of service items, normal deterioration of soft trim and appearance items. **QUALITY BUILT IN—SO THE VALUE STAYS IN.**

†Whichever comes first

You know it will taste better

Clip these recipes for your file now! This dinner serves four.

When you and Kraft get together, thrifty dishes become brand new favorites. You discover that everyday meals can be wonderfully *good* meals. Easy to make and pretty to look at, too. For this, there's nothing else quite like Kraft experience and quality. From the very start you know it will taste better when you make it with Kraft.

Circle Salad. Such a bright, tempting salad is sure to tantalize your family's so-so wintertime appetites. Its lively crowning touch is Miracle Whip. The one-and-only flavor of this creamy salad dressing—from a bouquet of fresh-ground spices—wakes up the natural goodness of fresh vegetables. For each serving, arrange slices of carrot and cucumber on a slice of crisp lettuce. Top with Miracle Whip.

Reach for Kraft
it's worth it!

Skillet Meatloaf. A tasty new version of a good hearty standby. The "taste secret" is the extra-rich cheese flavor of Kraft American Slices (the best-tasting pasteurized process cheese you can buy) melting over juicy tender meat loaf. Combine 1½ lbs. ground beef, 1 cup milk, ½ cup each chopped onion, sliced celery and dry bread crumbs, 1 egg, 1 tbsp. Kraft Prepared Horseradish, 1 tsp. salt and ¼ tsp. pepper; mix lightly. Spoon half of mixture into 8-inch skillet. Cover with 5 Kraft American Slices and remaining meat mixture. Bake at 350°, 40 min. Top with additional cheese, cut in triangles; return to oven 5 min.

Reach for Kraft
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when you make it with KRAFT

A hearty, well-balanced meal
that helps you balance your budget

Spaghetti Milanese. This appetizing supper dish has true Italian flavor and gusto. It's ideal for hurry-up meals because you get a head start from a package. Prepare 1 pkg. Kraft Tangy Italian Style Spaghetti as directed. Cook ½ cup each diced onion and chopped green pepper in 2 tablespoons Parkay Margarine until tender; add hot sauce. Toss spaghetti with Grated Parmesan Cheese; top with sauce. Be sure you use *Kraft* Tangy Italian Style Spaghetti Dinner—it gives you a generous packet of herbs and spices for more sauce than others give you (just add your own tomato paste). And real aged Parmesan Cheese, too.

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it's worth it!

Mallow Frosted Gelatin. Everyone will rave over your delectable dessert! It's so elegant-looking, so delicious and so gelatin-easy to make. The magic ingredient is Kraft Miniature Marshmallows—the good kind to keep handy because they're jet-puffed to stay soft and blend smoothly into any recipe. Simply dissolve 1 3-oz. package lime-flavored gelatin in 1 cup boiling water; add 8 to 10 ice cubes. Stir until slightly thickened; remove unmelted ice. Fold in 1 cup Kraft Miniature Marshmallows and 1 cup diced apple; fill 4 dessert dishes. Chill until firm. Light, luscious—a refreshing ending to a hearty meal.

Reach for Kraft
it's worth it!

Night People like Parliaments and playing darts for high stakes:
the winner gets to sleep late and the loser has to fix breakfast for the kids.

Night People

They smoke Parliament. They like the style of this cigarette.

Parliament is made a different way
with a firm tip, and the filter
that's recessed inside a mouthpiece.
That's what makes it taste good.
Try Parliament. Tonight!

noon *Times Herald* hit the streets. One of the clerks at the Texas School Book Depository bought a copy and ran inside, waving the newspaper map of the motorcade route. The President's car was going to pass beneath their windows, cruising slowly toward the triple underpass.

AIRCRAFT 26000 departed Andrews at 11:05 EST. Col. Jim Swindal was a rakish Alabamian with a Terry-and-the-Pirates profile, and he had a dream plane to fly—a hundred tons of gleaming machinery, exquisite appointments and air-conditioned, soundproof cabins.

That morning, the President unbuckled his worn black-alligator briefcase and spread the contents on the stateroom desk. He was studying diplomatic cables marked "EYES ONLY, PRESIDENT." Across the aisle, his wife and Pam Turnure were working on a speech. It was to be the only one she would deliver in Texas, and would be quite brief. Since she was going to appear before the LULAC's—the League of United Latin American Citizens—she had decided to speak in Spanish. In the stillness of the stateroom, her soft Castilian could be heard clearly.

In the staff area, forward, Ralph Yarborough was embattled. In the last few days, he had learned the details of the trap Governor Connally had laid for him. The more he thought about it, the more wrathful he became. Connally and Johnson —for he held the Vice-President guilty as a co-conspirator—were, in his opinion, as black as a Republican heart.

Jim Matthias, a pool reporter, asked about the Austin reception. Yarborough snapped, "Well, I'm not surprised. Governor Connally is so terribly uneducated governmentally, how could you expect anything else?" Now the vendetta was on the record. Once 26000 landed, the quote would be relayed to the press plane. . . .

CHAPTER THREE

THE CITY AHEAD shimmered brightly, a skyline on a plain. There had been no reprieve for McHugh: San Antonio was going to be hot. Below, at San Antonio International Airport, Lyndon Johnson had just emerged from the terminal barbershop and was lining up greeters. Usually, Lady Bird was at his elbow on such occasions, but she had glimpsed her college roommate in the crowd, and the two women were embracing enthusiastically, leaving him to cope. There was a lot to cope with. Lyndon was at his best in such situations. He soothed everyone and placed them just as the press and backup planes from Washington were parking. The reception committee was ready.

"There it is!" shouted a man, and there it was—Air Force One, with the Stars and Stripes on its tail, taxiing gracefully across a distant airstrip. "Jackie!" cried a woman, and the crowd took it up: "Jackieee! Jackieee!" A ramp was wheeled up, the rear door opened, and the First Lady emerged first, smiling her shy, hesitant smile. The mob roared. Then the lithe, familiar figure appeared in the doorway, fingering a button of his jacket. Another roar. Ralph Yarborough should have been third, but Ralph, aware that Henry Gonzalez was the city's favorite Texan, gently shoved Henry ahead of him. Everyone was baying now, and even the jaded officials burst into applause when the President wrung the mayor's hand, cut to one side and, with Jacqueline, waded into the Congressman's huge family.

Meanwhile, the motorcade was forming. Among the staff, O'Donnell's word was law. He had personally approved each appointment, including Colonel Swindal's, and he could transfer anyone who grew unruly. But he was powerless in Congress, as Ralph Yarborough was about to demonstrate. The Senator was stalking toward the north side of the terminal when a flock of local liberals surged up and told him they had heard about the Austin plot. They suggested he leave the party in Dallas. He nodded vigorously. "And don't get in the same car with Johnson," said their leader, Maury Maverick, Jr. "Every liberal here and in Houston knows what Connally and Johnson are trying to do to you, and they're waiting to see if you'll knuckle under to it."

The motorcade was about to depart, yet Yarborough still didn't know where he was supposed to sit. Larry O'Brien had informed him that in each city, he would share a car with the most popular local figure—usually the mayor. At no point, however, had the Vice-President's convertible been mentioned.

"They're fixing to put you there," Maverick insisted, and he was right. Agent Rufus Youngblood, a slender, balding, aggressive Georgian, approached Yarborough. "Senator, you're scheduled to ride in the Vice-President's car here," Youngblood said. Yarborough looked right through him, spun on his heel, and walked up to Gonzalez. "Henry," he said, "can I hitch a ride with you?"

The Congressman was delighted. So was the White House press corps. All 40 correspondents had received Yarborough's Air Force One quote about Connally, and now, when they saw him avoiding the Vice-President, they drew the inevitable conclusion. They decided to call it a snub. Connally was to blame, but Connally was safe and snug in the big Lincoln; it was Johnson who was losing face.

The Kennedys' drawing power was not a myth. The turnout was fantastic. Over 125,000 people were jammed along the route, and they had transformed their city. On an ordinary day, San Antonio is a drab city. Today, all its ugliness was invisible to the distinguished visitors because it had been masked by a mantle of humanity. The curbs were dense with shining Latin faces. Thousands of individuals had given considerable thought to an original reception, and the President became as much spectator as spectacle. Flags and placards and messages were waved above the crowd. Lady Bird, who shrewdly discounted mass-produced placards, saw hand-lettered signs on every side: "Welcome, JFK," "*Bienvenido*, Mr. President," and, imaginatively, "Jackie, Come Water-ski in Texas!"

At Brooks Medical Center, the brisk wind had grown brisker. Over half the audience couldn't hear the President's speech, a ringing reaffirmation of the New Frontier. But at its end, they cheered as though they had heard every word.

Immediately after the departure of the Presidential party from San Antonio International Airport, Colonel Swindal had moved his three-plane fleet to nearby Kelly Air Force Base, and there, at 3:48 p.m., the Kennedys reboarded Aircraft 26000. They were drenched and limp. The attrition of vitality, the enervating toll of such a journey, had begun. The President and Mrs. Kennedy retired to their bedroom. Their life together now had nearly a full day to run. Yet this was to be their last hour of serenity. Indeed, the hop to Houston took only 45 minutes.

The President emerged in a fresh shirt and summoned Rep. Albert Thomas. San Antonio had impressed Thomas. He wanted his district to put on as big a show, and he promised the President that it would. "My people have been busy as a cranberry merchant," he said. "They'll deliver."

"We'll see," said the President.

They saw a repetition of San Antonio's airport welcome. There was Lyndon, waiting at the foot of the ramp like Grover Whalen; there was the mayor, all effusion; there were three dozen yellow roses for the First Lady, and 8,000 Texans packed around the cargo entrance, sweating in the ferocious afternoon heat and yelling hoarsely for Jackieee. Thomas waved at his applauding constituents and bowed to the President. "Well?" he asked proudly. "OK," Kennedy laughed. At the gate fence, both Kennedys gave themselves to the mob. This kind of campaigning was unfamiliar to Jackie, but she had taken the bit, and her husband was appreciative; from time to time, he glanced back at her, smiling encouragement. . . .

HERE, THE PRESIDENT would ride in a smaller white convertible. Otherwise, the caravan was the same, and Ralph Yarborough remained its most prickly figure. Agent Youngblood approached him again. "You were supposed to be with the Vice-President in San Antonio, Senator," he said reproachfully, "and you're supposed to be with him here too." "I'm riding with my wife in Congressman Thomas's car, if that's all right with you," Yarborough said. The Agent reported back to Johnson. Lyndon nodded stonily.

When the column of celebrities drew up outside the Rice Hotel 40 minutes later, a reporter scurried up and down curbs, asking people why they had come. "To see the President and Jackie," they said or, often, just "For Jackie." Kennedy asked Dave Powers to estimate the crowd. "For you? About as many as turned out

continued

the last time you were here," said Dave, "but a hundred thousand more have come to look at Jackie." Max Peck, who ran the Rice, was a man of the world. Yet swinging open the First Lady's door with a flourish, he babbled idiotically, "Good evening, Mrs. President."

Max had had the $150-a-day International Suite on the fifth floor redecorated with "Mrs. President" in mind. The walls were blue, blue-green and cream; the carpeting was an arabesque of blue flowers. It was exquisite. There was a duplicate of the oval office rocking chair, a basket of fruit in the living room and Dom Pérignon, *pâté de foie gras* and fine caviar. Aren't they nice in Texas? the First Lady thought, and aloud she said, "It's grand." "You're the first to occupy it," Max told her, retreating.

The President removed his coat and soggy shirt and sat in the rocker, leafing through a pile of newspapers. Jackie dozed in her room while the President, stripping to his shorts, reworked the night's speech. Awake, Mrs. Kennedy put on a black cut-velvet suit, a double strand of pearls and diamond earrings. Then the President dressed, and they dined alone. They had to eat before any public banquet; once they arrived at the head table, there would be too many distractions.

Directly overhead, the Vice-President was finishing dinner in his sixth-floor Gold Suite ($100 a day) with Lady Bird. The President sent for him. The substance of their final conference is unclear. According to Johnson's recollection 19 months later: "There definitely was not a disagreement. . . . There was an active discussion" in which the two "were in substantial disagreement." He did not define the nature of the discussion. Precisely what was said is unknown. Mrs. Kennedy had withdrawn into the next room. Although aware of raised voices in the background, she was concentrating on her Spanish speech. Caterers and hotel servants, who were in and out, heard Yarborough's name mentioned several times. Johnson controlled his celebrated temper in his chief's presence, but in the words of one man on duty outside, "He left that suite like a pistol." Max Peck, watching him shoot into the corridor, long legs pumping, thought he looked furious.

"What was that all about?" Jacqueline Kennedy asked, coming in after the Vice-President had left. "He sounded mad." The President looked amused. "That's just Lyndon . . . ," he said. "But he's in trouble."

On a sudden impulse, she blurted out that she disliked Governor Connally.

He asked, "Why do you say that?"

"I can't stand him all day. He's just one of those men—oh, I don't know. I just can't bear his sitting there saying all these great things about himself. And he seems to be needling *you* all day."

"You mustn't say you dislike him, Jackie. You'll begin thinking it, and it will prejudice how you act toward him. He's been cozying up to a lot of these Texas businessmen who weren't for him before. What he was really saying in the car was that he's going to run ahead of me in Texas. Well, that's all right. Let him. But for heaven's sake, don't get a thing on him, because that's what I came down here to heal. I'm trying to start by getting two people in the same car. If they start hating, nobody will ride with anybody."

So she shook it off. It was nearly time for her appearance before the LULAC's.

In the ballroom, after his Vice-President had spoken, Kennedy talked briefly about the *Alianza*. "In order that my words will be even clearer to you," he concluded, "I am going to ask my wife to say a few words to you also." She suppressed her stage fright, and her classical accent fell quaintly on ears accustomed to Mexican diction.

"Olé!" they roared at the end of her brief speech. It really hadn't been that great. He had told them more. But she had given it to them in their own tongue. Leaving the ballroom, Dave Powers noted, the Kennedys "exchanged eyes." Lady Bird thought the First Lady's husband "looked beguiled."

The motorcade in the dark was their fourth of the day, and there were to be two more before they could sleep. At the Coliseum, Jack Valenti, a Houston public-relations man who was handling local arrangements, was having trouble with the Secret Service men. They demanded to see his White House pass. He didn't have one, had never even seen one. If two Houston patrolmen hadn't stepped forward to identify Valenti, he would have been escorted out, protesting. Once inside, however, he was entirely at home in the labyrinth of concrete passages. Indeed, he contrived to be the only outsider in the backstage lounge that had been set aside for the President and the Vice-President—a trick both Yarborough and Connally would have given a lot to know. He lurked there while the Kennedys and Johnsons waited for the paying customers to finish their Chicken Virginia, and when they took their seats at the head table, he crept along in their wake. There was no seat there for him, so he crouched beneath the President's legs like a Metropolitan Opera prompter.

One by one, eminent speakers rose, cleared their throats, spoke, were applauded and sat down. The President himself didn't contribute much eloquence. Most of his address was statistical. To his audiences, his easy air seemed unstudied. Very few knew how hard he had studied at Boston's Staley School of Oratory to achieve it. On a rostrum, the illusion of spontaneity was almost perfect; only his hands would have betrayed him, and he was careful to keep them out of sight. They weren't out of Valenti's sight, though. They were just above him, vibrating so violently at times that they seemed palsied. Now and then, the right hand would shoot up and out, the index finger stabbing the limelighted air to make a point. The moment it dropped, the trembling would begin again. . . .

It was after 9:30 when the travelers left the head table, and they couldn't rest until they had reached another hotel in another city, Fort Worth.

The marquee outside the Hotel Texas read "Welcome, Mr. President." The lobby was solid with jostling, hooting men in cream-colored five-gallon hats. The quarters set aside for the President were smaller and cheaper than the Vice-President's. "The hotel arrangements," as Ken O'Donnell said later, "were all screwed up." There was even something wrong with the air conditioner in the President's three-room suite on the eighth floor. Mrs. Kennedy had been given a drab green room above a neoned parking lot bordered by two loan companies, two bus stations, a garage, a theater. On a table was a pile of messages. Beside the table was her luggage. Where was her private secretary, Mary Gallagher? Dead tired, the First Lady crouched over her bags and started pulling out clothes. Before retiring, she joined the President.

"You were great today," he said.

"How do you feel?"

"Oh, gosh, I'm exhausted."

His vitality was illusory, like his debonair manner. Half asleep, he was planning ahead. "Don't get up with me," he said. "I've got to speak before breakfast, but you stay in bed. Just be at the breakfast at nine-fifteen." She said good-night.

Before turning her own light off, she carefully laid out tomorrow's navy-blue blouse, navy handbag, low-heeled shoes, pink suit and a pink pillbox hat: the outfit the President had chosen for Dallas.

CHAPTER FOUR

WHILE JOHN and Jacqueline Kennedy slept in Suite 850, most of those in their entourage were still up. Five floors above them, in the more spacious Will Rogers Suite, Lyndon Johnson jovially entertained members of his tong. Off the lobby, Connally held court hour after hour in the hotel's coffee shop. Reporter Bob Baskin told him of Yarborough's snappishness, and Connally issued a ringing call for harmony.

Duty kept some of the Secret Service men awake. The 12 to 8 shift mounted guard outside 850. Others were already asleep. But nine agents of the White House detail, unknown to Roy Kellerman, their chief for this trip, were out on the town. They started with beer and mixed drinks at the Fort Worth Press Club with Assistant Press Secretary Kilduff. Then seven of them continued at a colorful establishment called "The Cellar," ordering "Salty Dicks," a nonalcoholic specialty of the house. One stayed until five a.m. Fellow drinkers during those early morning hours included four agents who were to ride on the President's follow-up car in Dallas and whose alertness was vital to his safety. At various times, they were joined by three agents of the 12 to 8 shift—who were officially on duty, assigned to guard the President's bedroom door, and who chose to break the boredom of sentry duty in this fashion.

AMONG THE THOUSANDS of motorists who had crossed the President's motorcade route that Thursday evening in Fort Worth was a heavily jowled practical nurse named Marguerite Claverie Oswald. She had just finished a 3 to 11 p.m. shift at the Hargrove Convalescent Center and had been en route to her two-room frame duplex in the 2200 block of Thomas Place.

Marguerite Oswald was a woman of many resentments. Aged 56, she had a reedy, scolding voice, and in conversation, she was highly vocal on status and money, each of which she coveted and lacked. Although she had been married three times, she had nothing to show for it. One man had died, and the other two had left her. Now, she lived on her $9-a-day income as a shifter of bodies and bedpans, husbanding an $80 bank account and hoping her car and her elderly female patient would survive for another year or two. She was proud of her talent for frugality and had passed that pride along to her youngest son, who had just turned 24 in Dallas. Marguerite and Lee Harvey Oswald were alike in other ways. Of herself and Lee, she would later say, "I've been persecuted, and he's been persecuted."

Lee's father was the husband who had died two months before the boy's birth. Under the circumstances, mother and son might have formed a tender bond. They didn't. Lee slept with her until he was nearly 11 years old, but propinquity is not affection. Neither is refusal to discipline a child; when little Lee tangled with adults, Marguerite insisted the others were at fault. She was away during the day, and because she disapproved of playmates, he spent a remarkable amount of time alone. He became a flagrant truant.

To his probation officer, Lee said, "Well, I've got to live with her. I guess I love her." It is quite possible that he had no real concept of love. Already he had become truculent with men and inadequate with women—and quick to rage at both.

Although his I.Q. was high (118), his report cards didn't show it. After completing the ninth grade, he dropped out of school and, a year later, enlisted in the Marine Corps. Fellow enlisted men scorned him as "Ozzie Rabbit." The Corps' courses in marksmanship are the best in the world, and Private Oswald qualified as a sharpshooter with the M-1 rifle on the San Diego range. It was his first skill, and his last.

After three years in the Marine Corps, he sailed to Russia in 1959 to escape his disappointment in his own country. Thwarted in the U.S.S.R., he returned to the United States in 1962 and then passed through one cycle of frustration after another. He tried to run to Havana, but in Mexico City, the Cubans wouldn't even grant him a visa. The sickening truth was emerging: No one wanted him, no one had ever wanted him. Lee Harvey Oswald had become the most rejected man of his time.

He was the diametric opposite of John Fitzgerald Kennedy, and he was aware of this. Significantly, he attributed the President's success to family wealth: Kennedy had had all the breaks. Like many delusions, this one had a kernel of truth. One man had almost everything, and the other, almost nothing. Kennedy was spectacularly handsome. Oswald's voice hadn't yet lost its adolescent tone, he was balding, and he had the physique of a ferret. The President had been a brave officer during the war. Oswald had been court-martialed during his peacetime service. As Chief Executive and Commander in Chief, Kennedy was all-powerful. Oswald was impotent. Kennedy was cheered; Oswald, ignored. Kennedy was beloved; Oswald, despised. Kennedy was a hero. Oswald was a victim.

Since childhood, Oswald had been threatened by a specific mental disease, paranoia. In the end, the paranoiac is overpowered by a monstrous feeling of personal resentment and a blind craving for revenge. No one can predict what will trigger the catastrophe in any given case. But we now know that the fire storm in Lee Oswald's head ignited on the evening of Thursday, November 21, 1963.

At 4:40 p.m. that Thursday, while the Kennedys were deplaning in Houston, Oswald had ended his day's work in Dallas and begged a lift to suburban Irving in the battered Chevrolet of Wesley Frazier, a fellow employee at the Texas School Book Depository. To the best of Frazier's recollection, Oswald had approached him a few minutes after both had learned, from the map on the front page of the afternoon *Times Herald,* that the Presidential parade in Dallas would pass the warehouse. Usually, Oswald had gone to see his wife on Fridays for the weekend. "Why are you going home today?" Frazier asked.

"To get some curtain rods," Oswald explained. "You know—to put in an apartment."

Sometime, probably during the afternoon, Oswald had slipped into the Book Depository's shipping department and fashioned a brown-paper bag to conceal a bolt-action, clip-fed 6.5-mm. Mannlicher-Carcano rifle. The previous winter, he had sent a coupon from the *American Rifleman* magazine and a money order for $21.45 to Klein's Sporting Goods, Inc., in Chicago, using the assumed name of "A. Hidell." In return, a rifle bearing serial number C2766 and a four-power telescopic sight had been shipped to Dallas Post Office Box 2915 on March 20, 1963. Using the same alias, Oswald had ordered a .38 Smith & Wesson revolver. The revolver was in his furnished room in Dallas. The rifle was hidden in a brown-and-green blanket that, together with several seabags containing his personal belongings, was stored in the cluttered garage of Ruth Paine at 2515 West Fifth Street in Irving, a few steps from Frazier's home.

Oswald was going home to get the rifle now. His conversation with Frazier immediately after the news that the President would be within easy range of the warehouse Friday at noon leaves very little doubt that the two events were connected. Yet there is every reason to believe that his decision at this point was tentative. He had not quite reached the point of no return, and his behavior after he reached Irving suggests that it would have taken very little to dissuade him.

Despite Oswald's envy of the President, John Kennedy was not the central figure in his life. That person was Marina Oswald. Like his rifle, his wife was at 2515 West Fifth Street in Irving, and he went to her first.

MICHAEL PAINE, the head of the household, was not in residence. In September of 1962, just before their fifth wedding anniversary, the Paines had separated. Michael moved into an apartment. Ruth remained in the house with their two children. She was the stronger parent. The daughter of a physician and an ordained female Unitarian minister, she was a graduate of Antioch College and a Quaker convert. Her appearance was striking: In the autumn of 1963, she was a slender, dark-eyed brunette of 31, with a soft, musical, contralto voice and handsome, if slightly equine, features. She impressed everyone as a pious, highly intelligent young matron.

There were almost no lengths to which Ruth Paine would not go as a Samaritan, and when she encountered a fair-haired, 21-year-old Slavic girl badly in need of comfort, the consequences were predictable. They met at a party on February 22, 1963. She sought the girl's address and wrote to her. Her new acquaintance had something to offer in return for friendship. Ruth's work in the East-West Contacts Committee had stimulated her interest in the Russian language. As a native of the Soviet Union, her protégé could teach her Russian.

Henceforth, the lives of Ruth, Lee and Marina Oswald were to be bound together. The husband and the older woman became rivals for the friendship of the blonde wife, while she apparently toyed with first one and then the other. She aroused protective instincts and invited rescue. Her husband had spirited her away from the U.S.S.R., and now Ruth, more persuasive than Lee, was about to spirit her away from him.

Even before Ruth's appearance, the Oswalds' marriage had become a disappointment. In Minsk, Lee had thought he had found a beautiful, dedicated Communist, who would forever be his submissive darling. He had expected her to scorn the world that scorned him and reject the materialism of a capitalist society. Instead, she hounded him for new gadgets and movie money, jeered at him because he was such a poor competitor in the capitalistic wage market and ridiculed him because he failed to gratify her sexual appetite—because, as she told him in front of others, he was "not a man" in bed.

There were many fights, and Marina, a quick girl with a knee, was the better fighter. It was Lee who was shut in the bathroom as punishment after one quarrel, Lee who sank to his knees in the dark and wept bitterly as the greater darkness of his private nightmare enveloped him.

Once Ruth and the Oswalds had become well acquainted, Marina behaved like a minx with Lee. Openly flattering Ruth in front of him, she would undercut him, telling him that Ruth's Russian had become better than his. This showed the sureness of her feline instinct. She was playing Ruth off against him. Ruth knew it. Her Rus-

continued

sian wasn't as proficient as Lee's. Lee's attainments were limited enough as it was. His marksmanship might convince his wife of his masculinity, but when he tried to impress Marina by shooting at Maj. Gen. Edwin Walker, the General moved, and the shot missed. Lee was not caught, and two weeks later, he left Texas for New Orleans, and Marina moved in with Ruth. This first such arrangement was brief. The Oswalds were reunited, and Ruth drove Marina and the baby to Louisiana.

Correspondence between Ruth and Marina, which was published in the Warren Commission documents, suggests that Marina was simultaneously playing the ill-used wife and separated friend. On May 25, Marina sent Ruth a strange letter: "I'm ashamed to confess that I am a person of moods. And my mood currently is such that I don't feel much like anything! As soon as you left, all 'love' stopped, and I am very hurt that Lee's attitude toward me is such that I feel each minute that I bind him," she wrote. Her husband wanted her to leave America, "which I don't want to do at all." Lee had told her "that he doesn't love me, so you see we came to mistaken conclusions. It is hard for you and me to live without a return of our love—interesting, how will it all end?" In any event, she wanted Ruth to know that "My feelings toward you are sincere and I like you. . . ." And "I kiss and hug you and the children." On July 11, Ruth made a suggestion: "If Lee doesn't wish to live with you any more, and prefers that you go to the Soviet Union, think about the possibility of living with me. . . . I would be happy to be as an aunt to you." The following day, in a letter written at 2 a.m., she declared: "I love you, Marina, and want to live with you. I hope that you and Lee will agree." The answer was effusive. "Dear, dear Ruth!" Marina responded. ". . . Sweet Ruth, I am so grateful for your good and sympathetic heart."

Late in September, Ruth drove down to bring Marina, Marina's young daughter June, and a carload of miscellaneous Oswald belongings back to Texas. Lee Oswald's last real home had been broken up. He had never had much; now, he was left with nothing. His attempted flight to Cuba followed two days later. When that failed, he rejoined the two women in Texas on October 4. But neither of them wanted him.

Ruth had a comfortable house, complete with shiny appliances, a deep freeze, a sunny yard, a sandbox and swings. To Marina, she was a source of practical advice about matters that perplexed Lee. As a veteran deadbeat, he should have known where to get free medical advice for his wife, but it was Ruth who had sent her to Parkland Hospital's free clinics. She was even helpful with the vexing problem of sexual frustration. After Marina had complained that Lee was inadequate, Ruth proposed that they should go to a Planned Parenthood clinic for "consultation on this matter of satisfaction."

But the greatest rewards were not in the conferring of blessings by Ruth, a have, upon Marina, a have-not. They lay in the normal friendship of two women who were genuinely fond of their offspring and of one another. After the birth of Marina's second daughter, in mid-October, 1963, their household was one in which two adults and four children had made a sensible adjustment to a new way of life. The thing worked. It worked, that is, for those who were included. Lee Oswald had been pointedly excluded. Ruth finally made it clear that she didn't want him in her house, and Marina didn't either. He would be allowed to see his children occasionally, but he must learn to accept the fact that his wife had made a new home with Ruth now. And outwardly, at least, he did accept it. His appearances on Fifth Street were rare. His real home became his furnished room on North Beckley Avenue.

To Ruth, Marina was a bit of an enigma. She was conscious of what she called "a wall" in her companion. "You go so far with her, and then she draws a shade," Ruth said. Yet she had no inkling of the horror behind that shade. Seemingly, the girl had told her everything about Lee. Since her confidences had included the most delicate secrets of the marriage bed, it was reasonable to assume that she had omitted nothing of consequence. In fact, she had left out a good deal. Marina knew about her husband's aliases. He had told her about his shot in the dark at Walker; and using a box camera, she had photographed him holding the 6.5 Mannlicher-Carcano carbine and the .38 Smith & Wesson revolver. At the very moment that she was leaving him for Ruth, during that long drive back to Texas, she knew that he was trying to get to Havana. Marina even knew that the rifle was concealed in the garage. But she had divulged none of this to her new companion—a devout Quaker.

(Later, at the express wish of Chief Justice Earl Warren, who found her appealing, the President's Commission treated Marina with exceptional consideration. In retrospect, her own lack of consideration for the woman who had become her benefactor appears inexcusable.)

AT 5:25 P.M. on November 21, over six hours before the Presidential party reached the Hotel Texas in Fort Worth, Wesley Frazier had dropped Lee off. Marina was alone with the children. She was first startled to see her husband, and then she was indignant. Before coming out, he was supposed to telephone and ask Ruth's permission. He apologized and told her of his loneliness, of how much he missed the children. Marina refused to listen to him. But, as she testified later, "He tried very hard to please me." He put away diapers for her and lavished attention on Junie and the infant. Again and again, he repeated that her preference for Ruth was unbearable for him. He didn't want Marina "to remain with Ruth any longer." He wanted her and the children with him, and if she would only nod her head, he would "rent an apartment in Dallas tomorrow." At this point, Ruth arrived. She was also surprised to find him there, but didn't reproach him. Marina drew Ruth aside and apologized for Lee's unexpected presence. Ruth murmured that she understood, and together, the two mothers prepared supper.

At 6:30, Lee joined them at the table. He said little during the meal. He could scarcely woo Marina in Ruth's presence. When the dishes had been done, he renewed his entreaties. Finally, Marina made what seemed to be an encouraging response. Lee's niggardliness had always annoyed Marina. Now, she asked him to buy her a washing machine. Crawling, he capitulated. He wanted her back on any terms and promised her the machine. Then, she told him to go and spend the money on himself. She didn't need his largess. She had found an asylum here with Ruth. She could manage without him.

That was the breaking point. He had nothing left, not even pride. In Marina's later testimony, "He stopped talking and sat down and watched television." She glanced in once and saw him staring at an old film of a World War II battle. Apparently, he was intent upon the flickering screen. In fact, he was going mad. Madness does not strike all at once. Lee Oswald's disease had been in process all his life. Unquestionably, his mother's influence had contributed to his weakness. Nevertheless, the impact of his confrontation with his wife on November 21 appears to have been decisive, and it seems equally clear that the total eclipse of his reason occurred shortly before 9 p.m. that evening, a few minutes after Jacqueline Kennedy had finished her brief Spanish speech in Houston, and while she and the President were making their way out across the crowded lobby.

EDITOR'S NOTE: *After portions of the above article had been printed, Mrs. John F. Kennedy filed suit to prevent distribution of any material from* THE DEATH OF A PRESIDENT. *In that suit, affidavits were filed by Mrs. Kennedy and Senator Robert Kennedy stating that neither of them had at any time approved the content of the* LOOK *articles.*

LOOK *wishes to make it clear that neither Mrs. Kennedy nor Senator Kennedy has in any way approved or endorsed the material appearing in the* LOOK *articles based upon* THE DEATH OF A PRESIDENT. *The author, William Manchester, and the publishers of* LOOK *assume complete and sole responsibility.*

In the next issue of LOOK, for the first time, the minute-by-minute story of the assassination is retraced through the memories of those who were closest to Kennedy. Manchester also tells of the complete confusion at Parkland Hospital in Dallas on November 22 and reveals the beginning of the deep division between the Kennedy loyalists and the realists, who offered to help the new President.

THE DEATH OF A PRESIDENT
BY
WILLIAM MANCHESTER
PART TWO

MARINA OSWALD awoke at 6:30 on November 22, 1963, in Irving, Texas. She nursed the baby while her husband stood at the foot of the bed, dressing in a work shirt and gray trousers. For the last time, Lee Harvey Oswald said he really wanted her to buy things—clothes for herself, shoes for little Junie. She ignored him. Silently, she went back to sleep. Before departing for his job in nearby Dallas, he slipped off his wedding ring and left it in a little china cup. This was the day the chronic failure was going to demonstrate that he could succeed at something, that he was a man and did not deserve contempt. In the bedroom, he left $187 in bills. He kept $15.10. That wouldn't take him very far. But he knew he wasn't going far.

He walked a half block eastward on Fifth Street, carrying the rifle and telescopic sight in the brown-paper wrapping he had brought from the Texas School Book Depository in Dallas the previous afternoon. Wesley Frazier joined Oswald outside his house. As he slid behind the wheel, he noticed the bundle on the back seat. "What's in the package, Lee?" he inquired. "Curtain rods," Oswald replied curtly. It was 7:25.

FIVE MINUTES LATER, in Fort Worth, the Chief Executive's leisurely valet entered the Hotel Texas's Suite 850 and tapped on the door of the master bedroom.

"Mr. President," George Thomas called gently. He heard a stirring of covers and crossed the threshold. "It's raining out," he murmured. "That's too bad," John Kennedy said groggily.

Unlike Dwight Eisenhower, who had ignored newspapers, Kennedy scanned the leading dailies every morning soon after waking up. He was naturally alert to reactions to the tour's first day. He found them, and he found that the feud between conservative Gov. John B. Connally, Jr., and liberal Sen. Ralph Yarborough had become the biggest political story in the nation. Texas papers were giving it special prominence, and the Dallas *News* led the pack with two abrasive stories on the front page—"STORM OF POLITICAL CONTROVERSY SWIRLS AROUND KENNEDY ON VISIT" and "YARBOROUGH SNUBS LBJ." A third, inside, was headed, "PRESIDENT'S VISIT SEEN WIDENING STATE DEMOCRATIC SPLIT."

Kennedy angrily thrust the paper aside, missing, for the moment, the inflammatory ad on the next page, ominously bordered in black, like an announcement of mourning. Under the sardonic heading, "WELCOME MR. KENNEDY TO DALLAS . . . ," an organization styling itself as "The American Fact-Finding Committee"—a local coordinator of the John Birch Society and Nelson Bunker Hunt, the son of H. L. Hunt, it later developed, were the committee's most prominent members—asked the President 12 rhetorical questions. The ad accused him of responsibility for the imprisonment, starvation and persecution of "thousands of Cubans," and declared that he was selling food to Communist soldiers who were killing Americans in Vietnam. It hinted strongly that he had reached a secret agreement with the U.S. Communist party.

The stories Kennedy had read convinced him that the political bloodletting had become serious. Seizing the phone, he told his aide, Ken O'Donnell, that he wanted Senator Yarborough to ride in the Vice-Presidential car today, and no excuse would be accepted. O'Donnell and his fellow aide, Larry O'Brien, must spell out the alternatives for Yarborough—either he rode with Lyndon today, or he walked.

Stepping into the hotel corridor, the President was still frowning. He spotted Clint Hill and Muggsy O'Leary at the Secret Service post and stepped over to them. "Mary Gallagher wasn't here last night to help Jackie," he said tartly, referring to Mrs. Kennedy's private secretary. "Mary hasn't any business in motorcades. She's supposed to reach hotels before we do, and so far, she's batting zero. Get her on the ball."

His flash of temper was over. He saw an elderly woman in a wheelchair, a resident of the hotel, and paused to speak gently to her.

In the hotel lobby, his entourage swelled. He crossed Eighth Street and waded happily into the crowd, disregarding the drizzle, which had now become a fine mist. Secret Service Agent Bill Greer had brought a raincoat for him and held it aloft, but Kennedy shook his head. Laughing exultantly, he mounted the flatbed truck. Not everyone there felt so enthusiastic. Hugh Sidey of *Time* magazine was struck by the difference between the President's mood and the Vice-President's. Sidey wished Lyndon Johnson a good-morning. Johnson's answering greeting, he noted, was "perfunctory."

ORGANIZING HERSELF at her dressing table and listening to her husband's voice booming over the PA system below, Jacqueline Kennedy was pleased that it was raining; she hoped the top would be on that car, she was concerned about her hair becoming disheveled. She didn't want her husband to be ashamed of her. She knew she looked tired. She carefully inspected her face. To Mary,

continued

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she moaned, "Oh, gosh. One day's campaigning can age a person thirty years."

THE RAIN LIFTED as Wesley Frazier entered the outskirts of greater Dallas, and before parking two blocks north of the Book Depository, he switched off his windshield wiper. The time and temperature sign overhead revealed that he had arrived in good time, so he let his engine idle for several minutes on the theory that he was charging the battery. Then Oswald impatiently got out, carrying his package. Frazier's attention was diverted, and he followed slowly. By the time he reached the building, Oswald had climbed the loading platform and vanished inside.

Oswald's movements in the next few minutes are a matter of conjecture, based solely on circumstantial evidence. Superintendent Roy Truly later recalled meeting him by a book bin, saying, "Good morning, Lee," and receiving the customary reply, "Good morning, sir." But Truly was vague, and he had no recollection of the package. It is quite possible that he was thinking of another morning—that Lee had already ascended to the sixth floor, using one of the two freight elevators or the enclosed stairway in the northwest corner of the Book Depository, to conceal his weapon near the site he had selected.

There, as in so many ways, blind chance had played into his hands. The old flooring had become oily. Truly, observing that books stored there frequently became stained, had ordered it replaced with battleship-gray plywood. Half the floor was to be redone at a time. In preparation for the work, the rear, or northern, area had been largely cleared of cartons, while the southern side, which would face the passing motorcade, was a crowded jungle of cartons and wheeled book trucks. Concealment was easy, and it was there, sometime during the morning, that Oswald built his sniper's perch of boxes in the southeast corner, from which the President would be seen approaching dead ahead and then departing to the right front. One pile of boxes hid him from anyone looking out the windows of the Dal-Tex Building on the opposite side of Houston Street. Others would serve as props when he aimed. Still others would be used to provide a backstop against which ejected shells would bounce as he worked the bolt for each fresh shot.

ACROSS HOUSTON STREET, Abraham Zapruder strode into the office of his garment business on the fourth floor of the Dal-Tex Building.

"Where's your camera?" his secretary demanded severely.

"At home," he said timidly. They were good friends and often played this private game, pretending that she henpecked her boss.

"Mr. Z, you march right back there. How many times will you have a crack at color movies of the President?"

Zapruder fingered his bow tie and protested weakly, "I'm too short. Probably I wouldn't even get close."

"The crowd'll be light downstairs," she said, and when he hesitated, she added firmly, "Hurry up! You can make it in twenty minutes."

He turned back to the elevator on his short legs. It was 9:23 a.m.

CHAPTER TWO

AT THE BREAKFAST in Fort Worth a few minutes later, the hosts had boots for Jacqueline Kennedy and a five-gallon hat for the President. To Ken and Larry, who were watching the ceremonies on television, this was a moment of high mirth. They knew how the President always avoided queer costumes and wondered how he would get out of this one. He sidestepped the problem deftly by announcing that he would put the hat on in Washington Monday. But his wife was hoping he would wear it sooner.

As he began his address, she thought ahead to tomorrow on the LBJ ranch. Lady Bird had asked her to ask the President if there was anything special he would like there. "I'd like to ride," he had replied. She remembered now what a good rider he was, and how, during the summer of their engagement, he had galloped bareback through the fields of Newport on a workhorse. That Stetson would be decidedly becoming when he mounted an LBJ horse, she reflected. She thought he looked silly in ordinary hats, but anything picturesque—his naval officer's cap, the silk hat at his Inaugural—was splendid on him.

Although she had not seen the ranch, she vividly recalled her husband's account of his visit there eight days after his election to the Presidency. It had been a singular experience, and in one respect, a distressing one. The afternoon they arrived, the Vice-President proposed a dawn hunt the next day. To Kennedy, shooting tame game was not sport, and he had tried to bow out gracefully. To him, all killing was senseless. But how do you explain such scruples to a gracious host? You don't. He would never understand. He might even think you squeamish, and that was the crux of Kennedy's problem. As a national leader, he was obliged to resolve any doubts about his mettle. Besides, Lyndon had been dogged. He was determined to be cordial, and this was the finest treat his ranch could offer. Had he dreamed that his hunting invitation might give offense, he would never have mentioned it. To Johnson, Kennedy's reluctance seemed only a polite gesture, like demurring at a second helping.

So at 6 a.m. on November 17, 1960, they had turned out, yawning, by the ranch's fieldstone facade. Johnson wore a stained, shapeless cowboy hat and a weather-beaten leather jacket. Kennedy donned a checkered sport coat and slacks—a fellow guest, peering at him sleepily, thought he looked like a football fan. The mechanics were relatively simple. To him, hitting a bull's-eye wasn't much of an accomplishment. Only in hunting animals, that isn't all. There is one other matter, one fraction of a moment that to this hunter was anguish. It is the confrontation, when the killer faces his prey. In that instant, in the season before his Inaugural, John Fitzgerald Kennedy had squinted down the barrel of a high-powered rifle and looked into the face of the life he was about to take. He had committed himself; he couldn't flinch. He fired and quickly turned back to the car. Yet he couldn't rid himself of the recollection. The memory of the creature's death had been haunting, and afterward, he had relived it with his wife, trying to heal the inner scar.

Nor had that been the end of it. Early in the new administration, Lyndon had had the trophy mounted—not just the antlers, but the face too—and one morning, after a legislative leadership breakfast, he crossed the South Lawn of the White House, lugging it under his arm. Why not display it on the wall of the Presidential office? he suggested. Kennedy, feigning interest, was inwardly appalled. After the Vice-President had departed, he ordered the head put away and forgotten. It wasn't forgotten, though. Lyndon telephoned a jovial inquiry from his suite in the Executive Office Building, just across West Executive Avenue from the White House. Where was that deer? When was it going up? Later, he mentioned it again, and then again. Eventually, the trophy, like any other gift that has been repeatedly declined, became an issue between them, and once more, Kennedy acceded. The specimen was hung, not in the oval office, but in the nearby Fish Room. The President had granted a favor—how great a favor only the First Lady knew—and his Vice-President had been genuinely pleased. Give and take; win a few, lose a few; that was the strategy of public office.

In one version of his pet joke, the last line of which could be adapted to the occasion, he used to tell his friends that "The three most overrated things in the world are the state of Texas, the FBI and mounted deer heads."

The First Lady felt buoyant, and back in the suite, she decided to reassert her determination to make every political trip between now and next November. The President was on the phone, summoning O'Donnell. Hanging up, he told her they wouldn't have to leave until 10:40. "Do you mean we have a whole hour to just sit around?" she asked incredulously. "Oh, Jack, campaigning is so easy when you're President. Listen, I can go anywhere with you this year." As Ken came into the drawing room, Kennedy said, "How about California in the next two weeks?" "Fine. I'll be there," she promised, and was rewarded with one of O'Donnell's rare smiles.

Today was the ninety-fifth birthday of John Nance Garner. At 10:14 a.m., while her husband called Uvalde, Texas, to wish the former Vice-President a pleasant anniversary, she strolled through their rooms. She returned with an astounding discovery. In the fatigue of last night

and the haste of this morning, the Kennedys had not noticed that they were surrounded by a priceless art exhibition. On the walls and tables were a Monet, a Picasso, a Van Gogh, a Prendergast and 12 other celebrated oil paintings, watercolors and bronzes. A catalogue, which had also been overlooked, disclosed that the exhibit was in their honor. "Isn't this sweet, Jack?" she said as he hung up on Uvalde. "They've just stripped their whole museum of all their treasures to brighten this dingy hotel suite."

He knew it had been for her; she was the patroness of the family. Taking the catalogue, he said, "Let's see who did it." There were several names at the end. The first was Mrs. J. Lee Johnson III. "Why don't we call her?" he suggested. "She must be in the phone book." Thus Ruth Carter Johnson, the wife of a Fort Worth newspaper executive, became the surprised recipient of John Kennedy's last telephone call.

O'Donnell had a far less agreeable surprise for the President. While Kennedy was speaking in the ballroom, Mac Kilduff, acting press secretary, had leafed through the Dallas *News,* found the ugly advertisement and brought it directly to O'Donnell's rooms. Now Kennedy saw it for the first time. He read each word, his face grim, and handed it to Jackie. Her vivacity disappeared; she felt sick. The President shook his head. Slowly, he said to her, "Oh, you know, we're heading into nut country today."

The President prowled the floor. Abruptly, he paused in front of his wife. "You know, last night would have been a hell of a night to assassinate a President," he murmured. He said it casually, and she took it lightly; it was his way of shaking off the ad. He had what she called "a Walter Mitty streak." Like a little boy, he would watch a passing jet from the fantail of the *Honey Fitz,* wondering aloud if he could fly it, picturing himself wrestling with the controls. "I mean it," he said now, building the daydream. "There was the rain, and the night, and we were all getting jostled. Suppose a man had a pistol in a briefcase." He gestured vividly, pointing his rigid index finger at the wall and jerking his thumb twice to show the action of the hammer. "Then he could have dropped the gun and the briefcase" —in pantomime, he dropped them and whirled in a tense crouch—"and melted away in the crowd."

Lyndon Johnson came in immediately after this 007 caper. His sister and brother-in-law, Mr. and Mrs. Birge Alexander, were with him; they wanted to shake hands with a President. Lyndon introduced them and then, respectful as always, quietly withdrew, motioning them to accompany him. But his visit had reminded Kennedy of the party's fratricide; the President ordered Ken to call Larry immediately and tell him Yarborough must ride with the Vice-President even if the Senator had to be picked up and thrown into the back seat. At the end of the call, he snatched the phone from O'Donnell and said deliberately to O'Brien, stressing each word, "*Get him in the car.*"

Ken left to join Larry, and Jacqueline Kennedy examined the still-uncertain sky. She hoped it would darken. It would be ridiculous to spend all that time getting ready and then ruin everything in a 45-minute ride in an open car. "Oh, I want the bubble top," she said wistfully.

The issue was being resolved against her at that very moment. The President, anticipating the result, was changing to a lightweight suit in his bedroom. He had a hunch they were heading into more hot weather. Down the hall, O'Donnell was on the phone with Roy Kellerman, the ranking Secret Service agent. On another line, Kellerman was holding Agents Forrest Sorrels and Winston Lawson, who were standing by in Dallas. They were at Love Field with the top. Should it go up? Ken asked how things looked over there, and Roy relayed the question. The weather bureau had hedged, and the Dallas *News* had predicted rain, but Sorrels felt positive the wind would blow the storm eastward. "If the weather is clear and it's not raining, have that bubble top off," O'Donnell said. Then they all crossed their fingers. But not for long. Awaiting Yarborough in front of the hotel, O'Donnell and O'Brien anxiously scrutinized the clouds, and as they watched, their spirits lifted. In the distance, a thin ribbon of lemon-colored light appeared. O'Donnell took a deep breath. There would be no bubble top. O'Brien winked at him and said, "Kennedy weather."

The motorcade to Carswell Air Force Base was ready. The press buses had filled early because none of the reporters wanted to miss Ralph Yarborough's exit. Yarborough trudged out, deep in thought. O'Brien darted to his side.

"We wish you'd reconsider, Senator," he began. "The President will be very pleased if you ride with the Vice-President." Yarborough was about to shake his head. O'Brien scanned the press buses. He said swiftly, "They're watching us, you know. This is their big story." The Senator planted his legs and intoned, "I'll be proud to talk to them about proof of the President's popularity, Larry." He glanced up. It wasn't taking. Larry was just standing there stolidly.

"Look," Yarborough said. "I'll issue a statement." Impassively, Larry replied, "You can issue a statement of ten thousand words, but nothing will be as effective as you getting in that car." Out of the corner of his eye, he observed the Johnsons emerging from the hotel. It was 10:40. They were ready to go. Unexpectedly, Yarborough then capitulated. "Well, if it means that much—" he began resignedly. "It does," said O'Brien, cutting him off. Turning to Johnson, he muttered, "The Senator is riding with you and Mrs. Johnson." In an undertone, the Vice-President replied, "Fine."

An incident of *opéra bouffe* followed. O'Brien escorted them to the car. Yarborough was behind the driver, Lady Bird in the middle, Lyndon on the right. Just as Larry was about to close the Senator's door, a National Committee advance man appeared on the other side with Nellie Connally. The five-passenger Lincoln assigned to the President for the drive to the airfield would accommodate only the Kennedys, the Governor, and Kellerman and Greer of the Secret Service. The Governor's Lady had to go elsewhere. To the advance man, this seemed the logical place, and he started to put her in the back beside Johnson. But there was room for just three people in the rear. As the Vice-President and Mrs. Johnson slid over to make room for the new arrival, Yarborough, on the far side from Nellie, was being inexorably squeezed out.

Recognizing a blessing in disguise, he began edging off the seat and back toward the sidewalk. Larry thought bitterly, *There goes the old ball game.* In desperation, he resorted to physical force. Blocking the Senator's broad shoulders with his own stocky hips, he flapped his hand frantically at the advance man, who got the message. Without explanation—there was really nothing he could have said—he plucked Nellie out and escorted her to the front seat. Puzzled, the Governor's wife found herself riding between the police driver and Agent Rufus Youngblood.

AT LOVE FIELD in Dallas, security was tight. Armed policemen stood on every rooftop of the airport's eastern concourse, and an elderly, hawk-faced agent was chasing a photographer back behind the barrier. But to pilot Col. Jim Swindal, it looked like another *viva* throng. Viewed from his cockpit, the people seemed to be typical Texans, ready to give Kennedy his most boisterous reception since San Antonio.

It wasn't that simple. In San Antonio, the President had been greeted by an entire city. Here, the greeters were members of the local underground. Liberals were making a valiant showing, here and all along the route. A row of school truants held an American flag and a brave "We Love Jack," and a little Negro boy waved a square of cardboard reading "Hooray for JFK." In numbers and noise, the liberals were anxious to outshout Kennedy's audiences in Houston and Fort Worth. The very fact that they were swamped in Dallas elections, estranged from the majority and scorned by the city's most powerful men had kindled a special fire in them.

Yet this crowd wasn't the voice of Dallas. Liberal Texas Congressman Henry Gonzalez noticed how people would start to wave, then jerk their hands back and glance nervously over their shoulders.

The 12-man official reception committee reflected the peculiarities of Dallas. Not a single representative of organized labor was present, which for a Democratic President was extraordinary. The local unions had been eager to participate in the ceremonies here and at the luncheon, but after a series of exasperating encounters with the Republicans and right-wing Democrats who dominated the host committee, they had given up. The delegation waiting to greet the President consisted of nine Republicans, two Dixiecrats and a lone liberal, Barefoot Sanders.

Appropriately, the first man to bound through their reception line was not the President, but Connally. The Governor was violating protocol, but this, after all, was his handpicked team, just as he was their man. Kennedy couldn't carry Dallas. The Democratic Governor, how-

continued

ever, was a local hero.

Kennedy stepped out on the top step, narrowing his eyes as he sized up the crowd in one sweeping glance. Mrs. Kennedy appeared beside him, and the underground roared its approval. At the bottom, the Johnsons had been waiting patiently for five minutes. For the fourth time in less than 24 hours, they were welcoming the Kennedys to a new city in their best nice-of-you-to-come manner, and both couples felt slightly silly. Moreover, there would be two more such landings today, at Bergstrom Air Force Base near Austin and at the ranch. Lyndon looked up at Jackie, shrugging comically at the absurdity of it all, and she laughed.

Once the reception line broke up, the Vice-President's Dallas work was done. His next scheduled performance wouldn't come until 3:15, when they reached Bergstrom. The massed cheerers on the other side of the chain fence were for the President. The Vice-President, after a token appearance, led Lady Bird to the gray four-door convertible. He was so depressed by the continuing feud in the local party that he ordered the car's commercial radio turned on full blast, to drown out the noise of the crowd.

Aboard Air Force One, George Thomas was sorting out clothes. On the inboard bunk, he laid out a complete change for the next stop, Austin: shirt, socks, shoes and a lightweight blue suit. Then, reflecting that the President would be tired when he returned to the plane, he thought it would be nice to leave a reminder that tonight at the ranch, there would be a respite from speeches and parades. Beside the shirt, he put a pair of khaki pants, a sweater and a sport shirt.

At the fence, Roy Kellerman remained inches behind the President, studying faces and cameras. A local reporter told a Washington correspondent, "The Dallas police have learned their lesson. After Kennedy leaves here, they won't let anybody within ten feet of him." The Chief Executive continued down the line. Ronnie Dugger of the *Texas Observer* wrote in his notebook, "Kennedy is showing he is not afraid."

As the moment for the departure of the motorcade approached, there was an undignified scramble for seats, and Dr. George Burkley, the President's personal physician, wound up in the lowly VIP bus. The doctor wasn't concerned about status, but he told Evelyn Lincoln, the President's secretary, "I don't see why they can't put me in that lead car. I wouldn't mind sitting on an agent's lap."

Of course, there was only an outside chance that he would be needed. But that chance was Dr. Burkley's sole reason for being here.

O'BRIEN had assumed that the Yarborough problem was solved. Suddenly, he realized that the Senator had mentioned nothing about riding with the Vice-President here. Simultaneously, O'Brien saw Kennedy staring at him and cutting his eye meaningfully toward Yarborough, who appeared to be looking for another car. Larry grabbed the Senator's arm, shoved him onto the seat beside Lady Bird, and slammed the door. The motorcade was beginning to move.

CHAPTER THREE

ALL MORNING, the floor-laying crew had been working on the cleared section of the Texas School Book Depository's sixth floor. Now, it was time for a midday break, sandwiches, and afterward, the spectacle at the front door.

Feelings about the motorcade were mixed. There was little sympathy among the employees at the Book Depository for the President's uncompromising stand in behalf of equal rights for Negroes. Roy Truly, who didn't believe the races were meant to mix, later doubted that "half my boys would have gone out to see the parade if it hadn't been lunchtime." He explained, "Except for my niggers, the boys are conservative, like me—like most Texans." Still, a parade was a parade. Fifteen minutes before noon, the men used both of the building's antiquated elevators to race to the street level. As they passed the fifth floor, Charles Givens saw Lee Oswald standing by the gate, watching them go. Their departure left the top stories unoccupied. In effect, the upper part of the warehouse had now met the Secret Service's definition of the classic sniper's perch—it was a deserted building.

Yet no gunman can be certain that he will not be interrupted by a casual intruder whose memory will later place the killer at the scene. It happened to Oswald. Givens discovered that he had left his cigarettes in his jacket pocket. He came back and encountered Oswald on the sixth floor. "Boy, aren't you coming downstairs?" he asked, surprised. "It's near lunchtime." "No, sir," replied Oswald, respectful as always.

Possibly to allay suspicion, more likely to prepare the way for his escape, he said, "When you get downstairs, close the gate to the elevator." He meant the west elevator, which could be summoned from above only when the gate was down. "OK," said Givens, turning away. Now Oswald was alone, with over a half hour for his final preparations. Downstairs, Givens discovered that he couldn't close the west elevator's gate. The elevator wasn't there. It was stuck upstairs somewhere. Givens strolled away, thinking no more about it. It is his recollection that the time was 11:55 a.m.

Twenty minutes later, Roy Truly and his boys were in front of the Depository, listening for the growl of approaching motorcycles. At that moment, an alert policeman, scanning windows, could have altered the course of history. For Lee Oswald was in position now, clearly visible to those below. A youth named Arnold Rowland, who knew guns, had been watching from below with his wife since 12:14 p.m. He saw Oswald silhouetted in the window, holding what appeared to be a high-powered rifle mounted with a telescopic sight. One of Oswald's hands was on the stock; the other was on the barrel.

A police officer stood 12 feet from the Rowlands, but it never occurred to Arnold to speak to him. Assuming that Oswald must be protecting the President, he said to his wife, "Do you want to see a Secret Service agent?"

"Where?" she asked.

"In that building there," he said.

On the west side of Houston Street, Robert Edwards and Ronald Fischer had been waiting since 12:20. Suddenly Edwards pointed and said, "Look at that guy." Fischer followed his finger. The weapon was below their line of sight; what had attracted Edwards's attention was Oswald's stance. Fischer agreed that it was peculiar. The man they saw was transfixed, staring to his right, away from Main. To Fischer, it seemed that "he never moved, he was just gazing, like a statue."

The closest known eyewitness, Howard Brennan, a frail pipe fitter, had headed for the plaza at 12:18 p.m.—the time-and-temperature sign on the Depository roof pinpointed the moment—and settled down on a three-and-a-half-foot high white-cement wall on the edge of the plaza, directly across from the warehouse entrance. Brennan was 40 yards beneath Oswald. Waiting in the sun, he dried his forehead on the sleeve of his khaki work shirt and then peered up, hoping the sign would tell him the temperature. But that part of it was obscure from here. His eyes dropped to the warehouse's sixth floor, to the pinched face of Lee Oswald, now in profile. He, too, wondered why the young man was standing stock-still.

There was a sound of distant shouting from Main Street. Brennan, Rowland, Edwards and Fischer forgot the strange figure in the open window and pivoted. Edwards said excitedly, "Here it comes."

AT 12:24, Jim Hosty, an FBI agent who was in charge of the Bureau's current investigation of Oswald, watched Kennedy from the curb and then stepped into the Alamo Grill for lunch. He had seen the President. His day, he felt, was made.

WHEN THE motorcade reached Main and Market at 12:28, it occurred to Yarborough that anyone could drop a pot of flowers on Kennedy from an upper story. Beyond them, the green of Dealey Plaza was visible. *My, that open sky looks good;* the Senator thought.

AT HOUSTON and Elm, Agent Sorrels radioed the Trade Mart that they would reach there in five minutes. Then Agent Lawson automatically scanned the overpass. There were railway workmen on top, a security breach. Through the windshield, he motioned urgently to a policeman there in a yellow rain slicker, indicating that he wanted the area cleared. The officer was unresponsive.

He didn't understand.

Agent Greer, recovering from the difficult turn, started to relax. The strain was over. Then he, too, noticed the workmen. Puzzled, he studied the unfamiliar street to see whether he could veer at the last minute if necessary and take the President beneath a deserted part of the span. The Lincoln was now passing a pine oak that momentarily screened John Kennedy from the muzzle in the sixth-floor corner window. Abe Zapruder, hunched over his Zoomar lens, was photographing the Presidential car—SS 100 X in Secret Service code—as it approached him. Nellie pointed to the underpass and said to Jackie, "We're almost through. It's just beyond that." Jackie thought how pleasant the cool tunnel would be. Everything seemed very quiet here. She turned to wave to the left. In the front seat of the follow-up car, Agent Emory Roberts radioed the Mart, "Halfback to Base. Five minutes to destination." He then wrote in his shift report, "12:35 p.m. President Kennedy arrived at Trade Mart."

Mac Kilduff, misreading the sign on the front of the warehouse, said to Washington correspondent Merriman Smith, "What the hell is a Book Repository?" Further back in the motorcade, Evelyn Lincoln was saying, "Just think—we've come through all of Dallas and there hasn't been a single demonstration."

The Lincoln moved ahead at 11.2 miles an hour. It passed the tree. Zapruder, slowly swinging his camera to the right, found himself photographing the back of a freeway sign. Momentarily, the entire car was obscured. But it was no longer hidden from the sixth-floor corner window. It had passed the last branch.

Spectator Charles Brend's five-year-old boy timidly raised his hand. The President smiled warmly. He raised his hand to wave back. There was a sudden, sharp, shattering sound.

Most of the hunters in the motorcade identified the sound immediately as rifle fire, but the White House detail was confused. The agents were unaccustomed to the bizarre effects created when small-arms fire echoes among unfamiliar structures, such as the buildings around Dealey Plaza. Secret Service Agents Kellerman, Lawson, Greer, Ready and Hill all thought the sound they heard had been caused by an exploding firecracker. It was only when he saw the President lurch forward and grab his neck that Clint Hill, who had extraordinary reflexes, leapt out of Halfback, as the follow-up car was known in Secret Service code, and charged forward toward SS 100 X. The reflexes of the agents nearest the President were crucial in those seconds after the first shot was fired. There are standardized tests to measure this ability, and any jet pilot who fails such a test is grounded. However, Presidential bodyguards were not required to take them.

In addition, a man's reflexes slow down as he ages, and the pace at which he lives may slow them further. The Secret Service pace was furious. Men assigned to the White House detail averaged from 50 to 80 hours overtime every month. "At forty," they said among themselves, "a man on this detail is old." Yet Service tradition dictated that the posts closest to Kennedy should be reserved for senior men. Greer, the President's driver, was 54. Kellerman, who sat beside Greer, was 48. They were in a position to take evasive action after the first shot, but for five terrible seconds, they were immobilized.

IN THE VICE-PRESIDENTIAL car, Yarborough thought he smelled gunpowder. "My God!" he yelled, "they've shot the President!" Agent Rufus Youngblood hurtled over the front seat toward Johnson. He was less positive than he seemed; he was thinking that this was going to be very embarrassing if he were wrong. But his voice was firm. "Get down!" he snapped at Johnson.

In the VIP bus, Dr. Burkley was staring out absently at store windows. The President's physician had heard nothing. He was too far back in the motorcade.

THE PRESIDENT was wounded, but not fatally. A 6.5-millimeter bullet had entered the back of his neck, bruised his right lung, ripped his windpipe, and exited at his throat, nicking the knot of his tie.

In the summer of 1966, a former Cornell graduate student published a dissertation that suggested that this first bullet followed a different trajectory. The implication was that a second assassin had aided Oswald. The issue is resolved by the X rays and photographs which were taken from every conceivable angle during the autopsy on the President's body. Robert Kennedy has decided that this material is too unsightly to be shown to anyone, including qualified scholars, until 1971. He has turned it over to the National Archives with that restriction. Although this writer has not seen the material, he interviewed three people with special qualifications who examined it before it was put under seal. None of them knew the other two, but all three gave identical accounts of what they had seen in the photographs and X rays. The X rays show no entry wound "below the shoulder," as argued by the graduate student. Admittedly, X rays of active projectiles passing through soft tissue are difficult to read. However, the photographs support them in this case—and clearly reveal that the wound was in the neck. Finally, the recollections of all doctors present during the autopsy, including the President's personal physician, agree unanimously with this overwhelming evidence.

Continuing its flight, the bullet had passed through Governor Connally's back, chest, right wrist and left thigh, although the Governor, suffering a delayed reaction, was not yet aware of it.

AS THE LINCOLN emerged from behind the freeway sign, Abe Zapruder, the amateur movie photographer, saw the stifled look on the President's face and was stunned. Nellie Connally twisted in her seat and looked sharply at Kennedy. His hands were at his throat, but he wasn't grimacing. He had slumped a little.

Roy Kellerman thought he had heard the President call in his inimitable accent, "My God, I'm hit!" Roy looked over his left shoulder. Greer was looking over his right shoulder. The car, wobbling from side to side, slowly veered out of line—and both saw that Kennedy was hit.

At this instant, the impact of John Connally's wound hit him. He pitched forward, saw that his lap was covered with blood, and toppled to the left, toward his wife.

Suddenly, the Governor felt doomed. He panicked. "No, no, no, no, no!" he shrieked. "They're going to kill us both!"

Jacqueline Kennedy heard him. In a daze, she wondered, *Why is he screaming?* Already she had started to turn anxiously to her husband.

Greer turned back to the wheel. Kellerman, hesitant, glanced over his shoulder again. Neither had yet reacted to the crisis.

And now it was too late. Spectator Howard Brennan, openmouthed, saw Oswald take deliberate aim for his final shot. Crooking his arm, Oswald drew a fresh bead with his Italian rifle. His target, startlingly clear in the crosshairs of his telescopic sight, was 88 yards away. He squeezed the trigger again.

The First Lady, in her last act as First Lady, leaned solicitously toward the President. His face was quizzical. She had seen that expression so often, when he was puzzling over a difficult press-conference question. Now, in a gesture of infinite grace, he raised his right hand, as though to brush back his tousled chestnut hair. But the motion faltered. The hand fell back limply. He had been reaching for the top of his head. But it wasn't there any more. . . .

THE INTERIOR of the Presidential Lincoln was a place of horror. The last bullet had torn through John Kennedy's cerebellum, the lower part of his brain. Leaning toward her husband, Jacqueline saw a piece of his skull detach itself. At first, there was no blood. And then, in the next instant, there was nothing but blood spattering her, the Connallys, Kellerman, Greer, the upholstery. Gobs of blood as thick as a man's hand soaked the floor of the back seat. The President's clothes were steeped in it, the roses were drenched. Motorcycle Police Officer Bobby Hargis was doused in the face by a red sheet. To Kellerman, it appeared that the air was full of moist sawdust.

John Connally screamed again and again in agony; in terror, Nellie began to scream too; they were saturated. Jacqueline rose on her stained knees, facing toward the sidewalk, and cried, "My God, what are they doing? My God, they've killed Jack, they've killed my husband. Jack, Jack!" There was also a reaction in the front seat of SS 100 X. "Move it out," Kellerman told Greer. Into the intercom microphone, he said, "Lawson, this is Kellerman. We are hit. Get us to a hospital."

The back of the Lincoln was equipped with metal grips on the trunk for agents and a step on each side of the spare tire. Clint Hill had his fingers in the left grip and his toe on the left step 1.6 seconds after the last shot. He had just begun to surge up when Greer rammed the accelerator to

continued

the floor. The Lincoln sprang forward, dislodging Clint's foot. He was deadweight, and dragging. Mrs. Kennedy pivoted toward the rear and reached for him; their hands touched, clenched, and locked. It is impossible to say who saved whom. Neither remembers, and the film taken by Abe Zapruder is inconclusive. Mrs. Kennedy, who was in deep shock, has no recollection of being on the trunk at all.

She drew Clint up, and he, vaulting ahead, pushed her down until she tumbled back into the car, and he spread-eagled his body across the back of the Lincoln. He could hold on now, but that was small consolation. From the street, he had seen Kennedy's head wound. He knew it was mortal, knew the Secret Service had failed; and in anguish and frustration, he hammered the trunk with his free hand.

As the Presidential car raced toward the hospital, Governor Connally lapsed into unconsciousness. He believed he was dying. So did his wife. Putting her mouth to his ear, Nellie whispered, "It's going to be all right, be still." Yet she didn't believe it. She doubted that anything would ever be right again. For a while, she thought he was already dead. Then one of his hands trembled slightly. Quickly, she put her own over it.

Nellie heard a muted sobbing from the back seat. In a strangled voice, Jacqueline Kennedy was saying, "He's dead—they've killed him—oh Jack, oh Jack, I love you." There was a pause. Then she began again. Nellie and Clint could hear Mrs. Kennedy, but she could not hear herself.

Reality came to her in dim flashes. She had heard Kellerman on the radio and had wondered why it had taken the car so long to leave. Next, in her red daze, she had become preoccupied with the President's head.

Huddled on the ruined cushion, cradling his shoulders in her arms and his head in her gloves, she crouched over him. Trying to heal the unhealable seemed to be all that mattered; she couldn't bear the thought that others should see what she had seen.

CHAPTER FOUR

ONE OF THE earliest consequences of the catastrophe was to become one of the most searing: a schism among those who were close to the Presidency. The loyalists, mourning John Kennedy, could not adjust to Lyndon Johnson. Realists accepted the succession, sometimes with astonishing alacrity. Within the first minutes after the final shot was fired, the split between loyalists and realists began to tear the Secret Service asunder.

The first realist was Agent Emory Roberts, who made the switch in allegiance while Kennedy's heart was still beating. Roberts had seen the last shot strike Kennedy's skull, was certain the wound was mortal, and had assessed the implications at once. Like every other agent, he carried in his pocket a commission book directing him "to protect the President of the United States." Since a dead man could not serve as President, the Vice-President, Roberts reasoned, was already the new Chief Executive.

His decision had come too late to stop Clint Hill, but when Jack Ready was about to leap after Hill onto the Presidential car, Roberts shouted, "Don't go, Jack!" Ready hesitated, then drew back. As the car picked up momentum, Roberts said to Agent Bill McIntyre, who had been standing behind Clint Hill: "They got him. You and Bennett take over Johnson as soon as we stop."

AS THE VICE-PRESIDENTIAL car drew up at Parkland Hospital, the dominant sound was the squawky commercial radio on Hurchel Jacks's dashboard. After an interval of utter pandemonium, with studio furniture toppling in the background and technicians calling to one another in hysterical stage whispers, a breathless announcer had pulled himself together. He was beginning to fit together bits of information after those first moments of total confusion. He said nothing about firecrackers. He was talking about gunfire.

The announcer's source was Mac Kilduff's press-pool car, fifty feet behind the Vice-Presidential car. Earlier, the correspondents there had been even closer. After the motorcade passed the Trade Mart, the press car had lost ground and was now weaving dangerously. The chauffeur was doing well to keep the road. He was driving in the middle of a furious fistfight.

Merriman Smith had seized the car's radiophone receiver while they were still on Elm Street. His Dallas UPI bureau heard him bark: "Three shots were fired at President Kennedy's motorcade in downtown Dallas." That first bulletin was on the UPI printer at 12:34. Before eyewitnesses could collect themselves, it was being beamed around the world. To those who tend to believe everything they hear and read, the figure of three seemed to have the sanction of authority, and many who had been in the plaza and had thought they heard only two reports, later corrected their memories.

The other wire-service reporter in the car was Jack Bell of AP. Smith was the senior wire-service man, and his seniority had given him a clear beat, the greatest in his career. The longer he could keep Bell out of touch with an AP operator, the longer that lead would be—so he continued to talk. Indignant, Bell demanded the phone. Smith stalled. He insisted that his Dallas operator read back the dictation. The wires overhead, he argued, might have interfered with his transmission. Everyone in the car could hear the cackling of the UPI operator's voice.

The relay was perfect. Bell, red-faced and screaming, tried to wrest the radiophone from him; Smith thrust it between his knees and crouched under the dash, and Bell, flailing wildly, was hitting both the driver and Kilduff. Finally, Smith surrendered the phone to Bell, and at that moment, it went dead.

THERE WASN'T a hospital attendant in sight. Kellerman, Sorrels and Lawson looked at one another, aghast. "Get us two stretchers on wheels!" Roy bawled.

The Dallas police had tried to alert Parkland, but the police dispatcher's equipment was not operating properly. That failure, one of many on November 22, played no role in the passion of John Kennedy. Had his injuries been less grievous, the delayed alarm would have become a proper matter for a searching inquiry. So would the decision to put Dr. Burkley at the end of the motorcade. But the Chief Executive was past saving, and had been now for six minutes. Had he been anyone but the President of the United States, the first physician to see him would have tagged him DOA—Dead on Arrival. There was no discernible respiration. His pupils were dilated and fixed. His brain was destroyed.

Nellie Connally had become visibly agitated. As long as they were moving, her self-discipline had been admirable, but now a pendulum was swinging within her. To her, the situation here seemed obvious. The man behind her was dead. She had seen the gore; no one could live after that. Yet everybody was fussing over the back seat. They were fretting over a corpse and paying no attention to her John. They were just letting the Governor of Texas lie there bleeding while they poked and fooled around, and it was outrageous.

The focus of attention was, in fact, the President, but no one was ignoring the Governor. They couldn't: Even if they had been indifferent to his suffering, the stark fact remained that he was in the way. Therefore, attendants, who had appeared at last, were leaning over Nellie from her side while Dave Powers, choking back his tears, lifted out Connally's legs. The transfer was easily accomplished. His condition was far less serious than it then seemed. The Governor's muscles were tense; he could brace himself and, being conscious, he could help his bearers. They placed him on the first of the two stretchers and carried him inside, Nellie stumbling after them.

Now it was the President's turn.

Mrs. Kennedy hadn't budged. Bowing her head, she continued to hold her husband. If she released him, the harrowing spectacle would reappear, and she couldn't endure that. Avoiding the faces around her, she crumpled lower and lower, pressing his stained face to her breast. The men could hear her making little weeping sounds.

"Please, Mrs. Kennedy," Agent Clint Hill said. He touched her shoulders, and they trembled convulsively. Four seconds passed, then five. "Please," Clint mumbled again. "We must get the President to a doctor."

She moaned, "I'm not going to let him go, Mr. Hill."

"We've got to take him in, Mrs. Kennedy."

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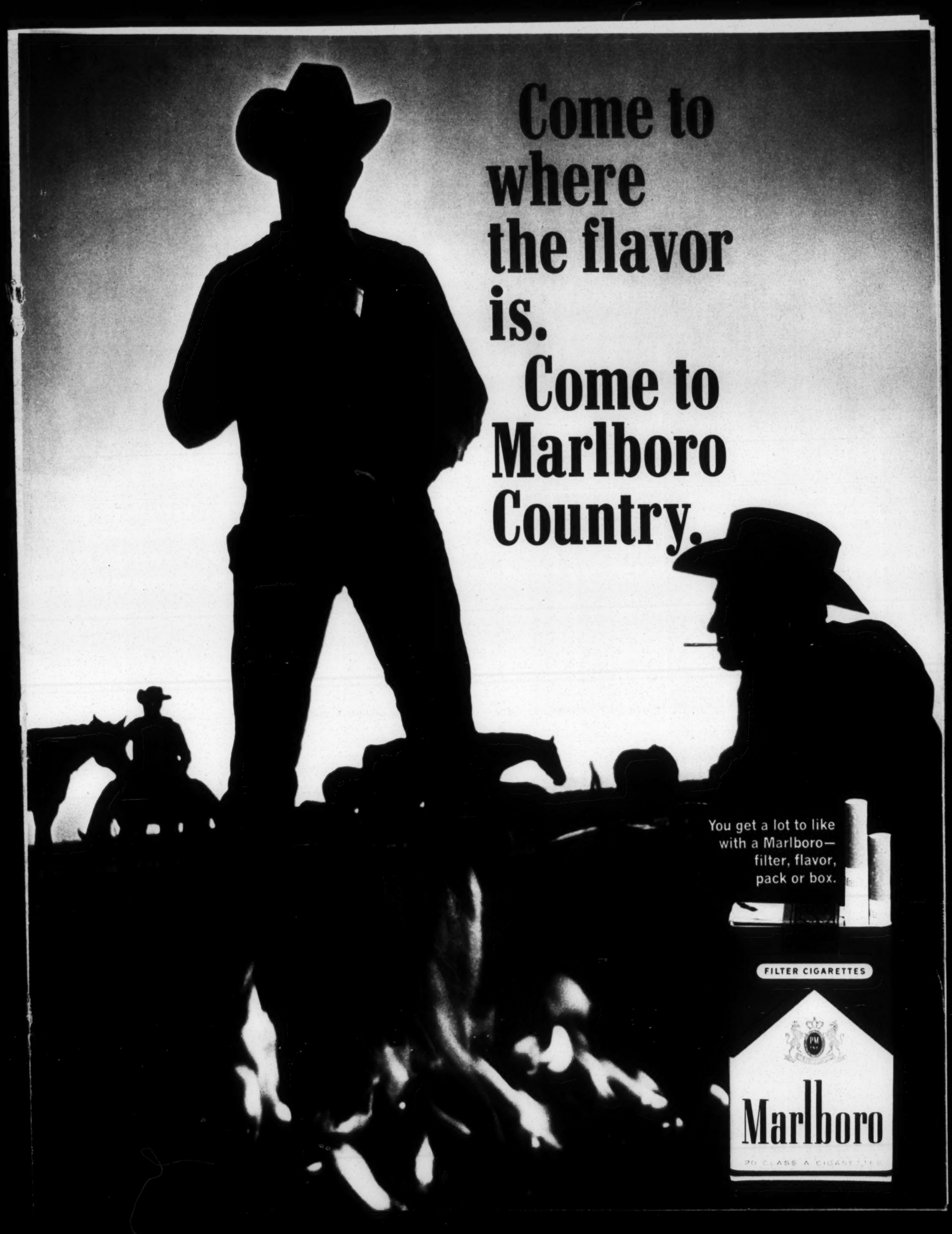
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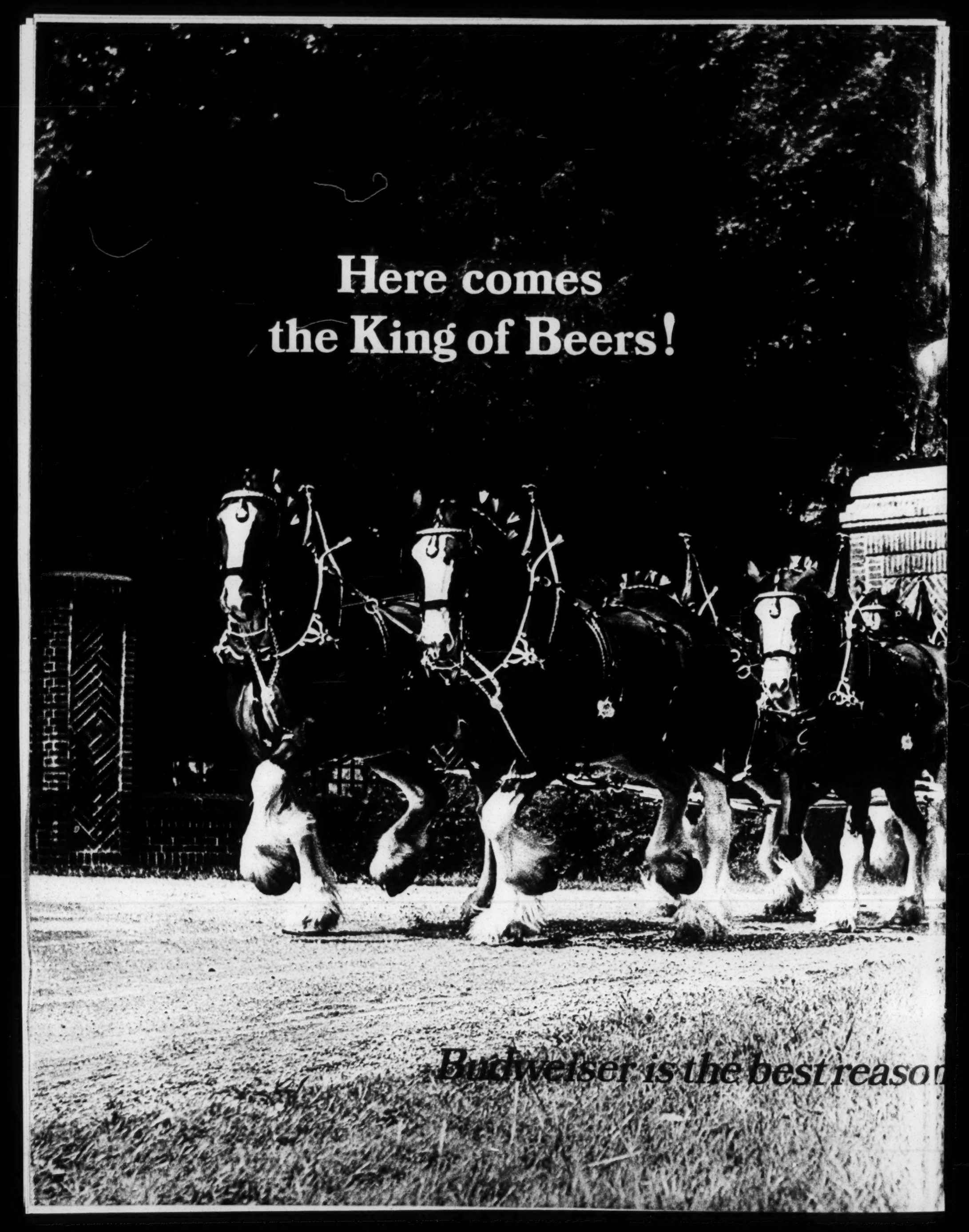
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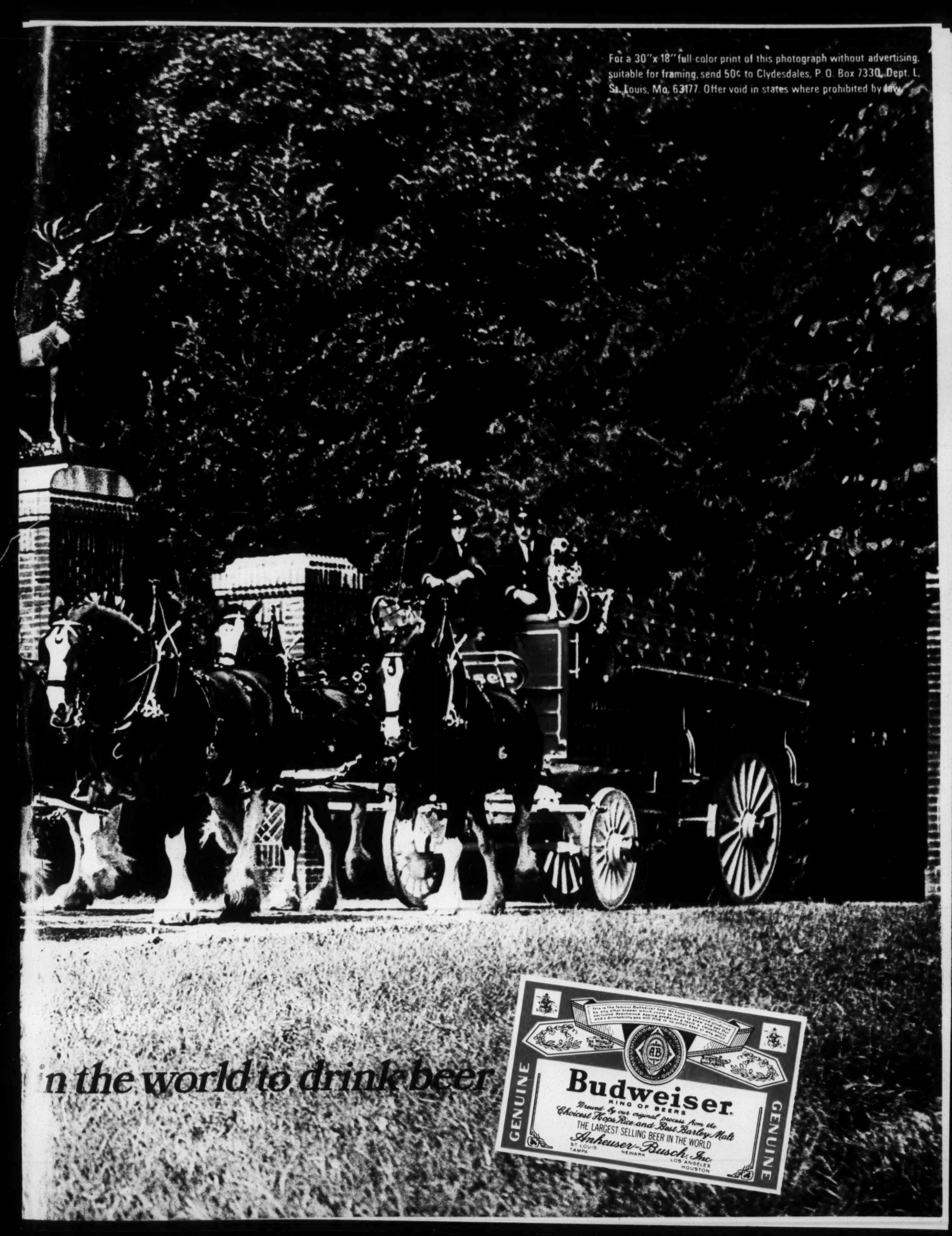
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"No, Mr. Hill. You know he's dead. Let me alone."

Suddenly, Hill realized what was troubling her. He ripped off his suit coat and laid it in her lap. Tenderly, she wrapped the President's head in the lining as five Secret Service agents drew him toward the second stretcher. She had another, brief moment of panic; they were moving too fast, the coat was slipping away. Scrambling along the wet seat, she seized it in white-knuckled fists while they grappled with his hips and thighs. It was a formidable struggle. Unlike Connally's, his body lacked tension. It was rubbery, and as a former practicing lawyer, Senator Yarborough recognized the signs. Horrified, he thought, *His legs are going every whichaways.*

Now he was on the litter, and they were rapidly wheeling him past a black No Loitering sign, through a scuffed wide door. Beyond lay another world. There was no sunlight. The air reeked. The corridor was walled in dreary tan tile, the floor was a dingy brownish-red linoleum.

In Trauma Room No. 2, John Connally was groaning. Nellie stood silently in the doorway, her face swollen, her eyes averted. The President was wheeled right, into No. 1. An arm seized Jackie, and there, on the threshold, she relaxed her grip on Clint's coat and stepped back. Her hopeless vigil had begun.

THE REPORTERS who did not travel with Mac Kilduff in the press-pool car were in two press buses. These buses unloaded as scheduled between the Furniture Mart and the Apparel Mart, on Industrial Boulevard. The bulk of the White House press corps showed their Polaroid passes to Dallas policemen, entered the Trade Mart, and heard the news either from officers or luncheon guests who had picked up Merriman Smith's flash over transistor radios.

Among the last to learn that anything had gone awry were the passengers on the hapless VIP bus. They had been instructed to go directly to the rear of the Trade Mart, but there were no Dallas policemen at the rear entrance. The guards were Texas state policemen who weren't tied into the radio network and didn't know what had happened. None of them, moreover, had ever seen a White House pass. They had been told that Secret Service agents would vouch for bona fide Kennedy people. But most of the agents had left for Parkland after picking up Kellerman's distress signal over the Charlie network.

The result was an icy reception for Dr. Burkley, the President's physician, and for Evelyn Lincoln, Pam Turnure, Mary Gallagher, Jack Valenti, Liz Carpenter and Marie Fehmer. A Ranger who knew Barefoot Sanders offered to admit him. No one could go with him, however. As a Texan, Liz was mortified. "This is Evelyn Lincoln, the President's personal secretary," she said indignantly, thrusting Evelyn forward. The guard inspected Evelyn's pass and handed it back to her. He said impassively, "I'm sorry, lady."

Suddenly, Dr. Burkley sensed that something terrible had happened. The atmosphere was ominous. Strangers were reeling around in circles. Doug Kiker of the New York *Herald Tribune* was sobbing passionately, "The goddamned sons of bitches." The doctor flagged Agent Andy Berger, who was about to leave in a police cruiser. The physician had just tossed his black bag on the floorboard when Chuck Roberts of *Newsweek* ran up. "Let me go with you," Chuck begged. Burkley, usually gentle, slammed the door in his face; the cruiser skirred into Harry Hines Boulevard and dropped the doctor outside Parkland's emergency entrance minutes after the President's disappearance within.

Parkland's emergency area had been overwhelmed. A metropolitan hospital is better equipped to handle a panic than almost any other public place, but no institution in the world could have weathered this one satisfactorily. There were too many people with too much rank, and there was an almost total collapse of discipline.

Jack Price, the hospital administrator, found himself begging his staff members to return to their own wards. Ambulatory cases were hobbling in every door, deaf to entreaties to turn back. One man told a nurse, "If the President's dead, why can't we see him? A dead body won't know the difference." Unwisely, she suggested that Mrs. Kennedy was entitled to privacy. "Jackie's here?" he cried. "Where?" He had to be restrained.

The Secret Service should have thrown up a security screen. But the disaster had exposed a hidden weakness—the allegiance of individual agents to a man, not an office. As long as Kennedy had been in command, the lines of authority were clear. Now, the old order had been transformed into hopeless disorder. Theoretically, Roy Kellerman was still the agent in charge. Emory Roberts had already defied him, however, and when Roy issued instructions that all the agents who had been riding in Halfback were to guard the hospital's entrances, nobody bothered to point out that Roberts had undercut him by reassigning them. In fact, few agents bothered to tell Roy anything, which was probably just as well, inasmuch as a showdown would have led to no real decision. Since Presidents pick their chief bodyguards, and since Kellerman was a stranger to Lyndon Johnson, Kellerman was already a lame duck. The identity of his successor was not so clear. Roberts was with Johnson, but Youngblood had been there before him and was a Johnson protégé. Thus the Secret Service, which should have been a symbol of continuity, was riven by disunion. The agents were as leaderless and perplexed as the rest of the Presidential party. Kellerman and Hill remained near Kennedy. Youngblood, Roberts and Lem Johns went with Johnson. Most were following personal loyalties. There was no overall plan, no design, and the inevitable consequence was anarchy.

During that first hour, hysteria was far more widespread than men could bring themselves to acknowledge. In retrospect, many later constructed accounts of how they felt they ought to have behaved—with emotion, but with control. The facts are more jagged. There was little control, and there were many aberrations that made no sense whatever. Nearly everyone in Parkland's emergency area in the minutes before or after one o'clock acted in a fashion that on any other afternoon would have been considered most odd. None of their quirks deserves ridicule, yet a few examples are useful, otherwise an understanding of the general mood is impossible.

Consider Maj. Gen. Ted Clifton. He was a general officer, a combat veteran, the President's senior military aide. Of all the men there, Clifton should have been the likeliest to grasp the capabilities of the Signal Corps. In fact, he forgot Signal entirely. Instead, he presented a credit card to a Parkland operator and told her that he wanted to make a long-distance call to the White House. Miraculously, he got through. On being connected, he asked the Situation Room to phone Mrs. Clifton and Mrs. O'Donnell and inform them that their husbands were uninjured. That urgent business out of the way, he instructed the operator to switch him to Bromley Smith, Executive Secretary of the National Security Council, and inquired of Smith, "Is there any intelligence on this?" The General's order of priorities was staggering. Only after wives had been reassured could he deal with the possibility of a plot against the United States.

Or take Clint Hill, a man of exceptional presence of mind, who had just demonstrated it on Elm Street. Roaming the emergency area, he realized that he was without his suit coat. It suddenly seemed important that he be properly dressed, and he approached a member of the hospital's administrative staff who was just his size and asked to borrow his coat. The public-relations man promptly surrendered it, though he wondered—quite reasonably—what possible difference shirt-sleeves could make at a time like this.

Dallas Police Sgt. Bob Dugger was worried sick about an automobile. He had heard the news at the Trade Mart and had driven here in the deputy chief's car. There hadn't been time to acquire permission, and now anxiety was gnawing at him. What would the chief think? Would he report a stolen vehicle? Would charges be filed? This was a serious matter.

A message for Anne Clifton; a clean coat for Clint; a chief's borrowed car—thus men turned from the unwieldy central event and seized upon details with almost pathetic gratitude. One by one, they could wrap them with understanding and tuck them away on the narrow shelves of the mind, postponing that awful moment when all the wrapping and tucking would be done and the enormous fact that would not fit must be faced. Individual conduct varied wildly in situations that were virtually identical. Jacqueline Kennedy and Nellie Connally stood a few feet apart, awaiting news of gravely wounded husbands. Both knew that the President's injuries had been mortal, and if there is such a thing as decorum in these circumstances, the Governor's wife should have been the first to speak. She wasn't. Jackie gently inquired about Connally. At first, Nellie said nothing. She was thinking that this

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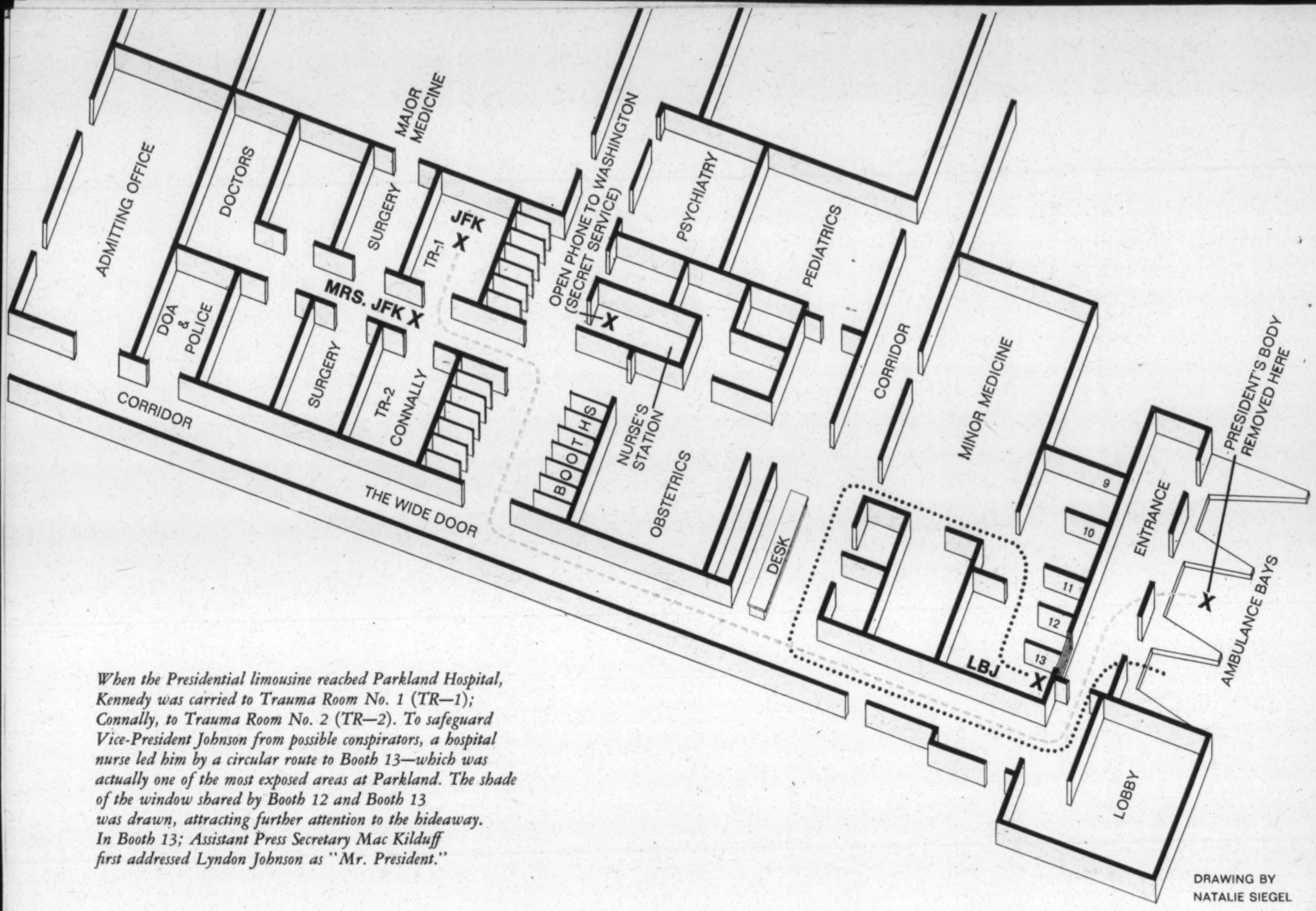

When the Presidential limousine reached Parkland Hospital, Kennedy was carried to Trauma Room No. 1 (TR—1); Connally, to Trauma Room No. 2 (TR—2). To safeguard Vice-President Johnson from possible conspirators, a hospital nurse led him by a circular route to Booth 13—which was actually one of the most exposed areas at Parkland. The shade of the window shared by Booth 12 and Booth 13 was drawn, attracting further attention to the hideaway. In Booth 13; Assistant Press Secretary Mac Kilduff first addressed Lyndon Johnson as "Mr. President."

DRAWING BY NATALIE SIEGEL

woman was almost a total stranger to her. She replied, "He'll be all right." And that was all.

Hugh Sidey took furious notes, half of which, he later found, were illegible. Reporter Bob Baskin simply left. He rode downtown to the city room of the Dallas *News* to talk to friends and find out what, if anything, was happening elsewhere in the world.

Liz Carpenter and Marie Fehmer had reached Parkland and been left in the administrative offices with aspirin and water. They had no idea what was happening and were growing increasingly restless. A passing employee called out that Kennedy had been shot. Liz thereupon jumped to an extraordinary conclusion. The President had been scheduled to address a luncheon at the Trade Mart. If he were wounded, he obviously couldn't talk. Therefore, she explained to Marie, the Vice-President would have to speak in his place, and as members of the Johnson staff, they should be present. There wasn't a moment to spare; he might be at the lectern already. Marie, impressed by Liz's logic, ran after her. At the hospital entrance, they explained the situation to a traffic policeman. He looked doubtful, then beckoned to a cruiser, which careened into Harry Hines Boulevard at terrifying speed and deposited them at the Mart's front door. To their amazement, only a handful of people were wandering about. All looked dazed. It looked as though the Vice-President's remarks would be poorly attended. Liz began to have second thoughts.

The epidemic of irrationalism wasn't confined to the Presidential party. Parkland's staff was also affected. Connally felt fingers plucking at his clothing: A voice said, "I've got his coat and shirt off." Another muttered, "I'm having trouble with his pants." The Governor felt a painful jerking around his hips. Exasperated, he groaned, "Why not cut them off?" There was a silence. Without realizing it, he had just reminded them of the hospital's established procedure.

The Parkland employees least in touch with reality were the clerks. The importance of paperwork had been drilled into them and now, seeking a haven from the general disarray, they fell upon the familiar rituals of routine.

"Kennedy, John F." was neatly logged in at 12:38, identified as a white male, and assigned the Emergency Room number 24740. His "chief complaint" was described as "GSW"—gunshot wound. "Connally, John," number 24743, had the same problem, and he was entered three spaces below, after a white female with a bleeding mouth and a colored female with abdominal pains. (The Governor, of course, had been admitted before all of them.)

This sort of thing went on all afternoon. Price, enraged, threatened to fire one zealous clerk. It solved nothing. Everything had to be recorded and filed; there could be no exceptions. O'Brien entered the hospital with Congressmen Albert Thomas and Jack Brooks. Taking a wrong turn, he found himself alone, facing a counter. On the other side was a bespectacled woman. "Just a minute!" she said smartly and handed him a form and a ball-point pen. In a stupor, he laboriously began to print "O'Brien, Lawrence F." Then he came to dead stop. Suddenly, the idiocy of the whole thing struck him. Dropping pen and form, he blundered down strange corridors, searching blindly for his President.

The body of John Kennedy lay at the center of the storm, insulated from it by the magnitude of the task that preoccupied everyone in Trauma Room No. 1. There was no need for sham activity beyond that threshold. The men and women who were gathering could not doubt the urgency of their work, and discipline invested it with a kind of peace. Blades and catheters were lifted automatically, dials spun instinctively; rubber-gloved hands reached, clenched and moved in rhythmic pantomime. The throat wound—which was then assumed to be an entry wound, because there was no time to turn him over—was small, and it exuded blood but slowly. The damage to the posterior cranium, however, could scarcely be exaggerated. That was the origin of the massive bleeding, which had begun on Elm Street, had continued throughout the ride to the unloading dock and the trip

down the corridor, and which was unstanched even here. By now, one would think, Kennedy would have been bled white, but his great heart continued to pump; some 1500 cc. of blood—three pints—had flecked the aluminum hospital cart, its sheeting, the floors, the walls beyond. And mingled with it were vast amounts of fine tissue from the cerebellum and coarser cerebral matter. Nearly nude, his long body, unmarred below the head, lay on its back across a three-inch black-leather pad. The fixed eyes—dilated and divergent, deviated outward with a skew deviation from the horizontal—were raised sightlessly toward the solitary fluorescent lamp glaring overhead.

The first physician to arrive, Charles Carrico, a second-year surgical resident in his twenties, examined him rapidly. There was no pulse, no blood pressure at all. Nevertheless, he was not quite gone. His body was making slow, agonizing efforts to breathe, and an occasional heartbeat could be detected. Carrico commenced emergency treatment, inserting a tube through the mouth in an attempt to clear the airway. Lactated Ringer's solution—a modified saline solution—was fed into the right leg via catheter. In a hurried undertone, the resident inquired about blood type. A nurse darted out. "What's the President's blood type?" she asked Hill and Kellerman. Clint started to reach for his wallet. Roy said, "O, Rh Positive." In fact, the President was given O, Rh Negative because there could be no reaction to it, whatever his type.

Fourteen doctors surrounded the cart. That was too many. The place was less than twice the size of Kennedy's private bathroom on the second floor of the Executive Mansion. Only three of the physicians were absolutely necessary: Malcolm Perry, the 34-year-old surgeon who had just stumbled down the flight of steps from Parkland's cafeteria to relieve young Carrico; Burkley, because he was acquainted with the patient's medical history, carried his special drugs in his black bag, and knew the proper dosage levels; and Marion T. Jenkins, chairman of the hospital's department of anesthesiology.

Incising the President's throat just below the mediastinal wound, Mac Perry began a five-minute tracheostomy—"a mouth in the throat." Meanwhile, the tube between Kennedy's lips had been connected to a respirator in an attempt to start him breathing again. At this point, Jacqueline Kennedy decided to enter the room. She had been in the drab hallway for approximately ten minutes, each worse than the last. Nurse Doris Nelson had tried to take her gloves off; passing orderlies had attempted to persuade her to rest in one of the sheeted cubicles. The enormity of what had happened had just begun to hit her, but she had already determined that she would not leave here.

Parkland's staff didn't understand the strength of the will behind that decision. They knew only her reputation, and like Robert Kennedy, she was a very different person than the public imagined. He was gentler and more sensitive than he was thought to be; she was far firmer than people believed. Inevitably, both had been overshadowed by the President. In the void he was about to leave, they would emerge, however, and for Mrs. Kennedy, the time to assert herself was now. During the first few minutes, she had been quietly watchful. She couldn't understand why all the doctors were running in; she was certain her husband had been killed. Then she had heard the early talk about fluids. Physicians assume that laymen are awed by medical terminology. Usually, they are right. This time, they were wrong. The President had been ill since marriage; his wife had spent much time in hospital waiting rooms. She knew what a saline solution was, and when she heard a voice from the trauma room say "resuscitation," she understood that too. *He's still alive,* she thought in amazement. It made no sense. She was convinced that he had been killed. *Could there be a chance that he could live?* she thought; and, *Oh, my God, if he could, I'd just do everything all my life for him.* Jackie glanced up at Larry and Ken, a few feet away. She whispered, "Do you think?...."

They said nothing. There was nothing to say. She said, "I'm going in there." Doris Nelson heard her and barred the way. The nurse was strong, and she had been imbued with the doctrine that relatives should be kept as far as possible from patients. One purpose of the policy was to prevent the very sort of false encouragement that had just been aroused in Mrs. Kennedy. Doris said sharply, "You can't come in here," and set her rubber-shod shoes. Unintimidated, Jackie said, "I'm coming in, and I'm staying." She pushed. Doris, much stronger, pushed back. Each time her husband had been sick, Jacqueline Kennedy had been turned away by doctors. She had heard him calling for her after his back operation; she had tried to go to him then, but no one would admit her. Then, when one specialist's treatments had begun to fail, she had wanted to bring in a consultant. She had been persuaded to change her mind, and the President had suffered through four months of intense pain and discouragement.

Until then, she had bowed to medical advice. The doctors, she had thought, must know best. But after those four months, she had sworn a private vow. Henceforth, she would at least be at his side when he needed her; never again would she let doctors or nurses cow her. Now, struggling harder, she whispered fiercely to Doris Nelson, "I'm going to get in that room."

The commotion attracted Burkley's attention. He came over. "Mrs. Kennedy, you need a sedative," he said.

"I want to be in there when he dies," she said. He nodded understandingly, then ran interference for her. "It's her right, it's her right, it's her prerogative," he kept saying, leading her past the woman in starched white, who reluctantly stepped aside under the impression that he was a Secret Service man.

AT 1 P.M., surgeon Kemp Clark said heavily, "It's too late, Mac." Perry's long hands crimped in defeat. He slowly raised them from Kennedy's unnaturally white breast, walked blindly from the room, and slumped in a chair, staring off into space and absently worrying the nail of his little finger with his teeth. From the head of the hospital cart, a doctor reached down and drew a sheet over the President's face. Clark turned to Jacqueline Kennedy. He said, "Your husband has sustained a fatal wound." The lips moved silently: *I know.*

CHAPTER FIVE

ON THE FIFTH FLOOR of the Justice Department building at Ninth Street and Pennsylvania, J. Edgar Hoover had picked up his direct line to the Attorney General's office. It was answered by Angie Novello, Robert Kennedy's personal secretary, who was staring across a desk at a frayed UPI page held aloft by a weeping press-office secretary.

"This is J. Edgar Hoover." His delivery, as always, was staccato, shrill, mechanical. "Have you heard the news?"

"Yes, Mr. Hoover, but I'm not going to break it to him."

"The President has been shot. I'll call him." A White House operator connected him with Extension 163, at the end of the swimming pool behind the Virginia mansion. In response to the ring, Ethel Kennedy left the men. The operator told her, "The Director is calling." Ethel didn't have to ask which one. In official Washington, there are many directors, but only one Director. She said, "The Attorney General is at lunch."

At the other corner of the pool, her husband had just glanced at his watch. It was 1:45 p.m. (12:45 in Dallas). He picked up a tuna fish sandwich and said to a guest, "We'd better hurry and get back to that meeting."

"This is urgent," the operator told Ethel. Ethel called, "It's J. Edgar Hoover." Robert Kennedy knew something out of the ordinary had happened; the Director never called him at home. He crossed to the phone, and as he took it, a man who had been listening to a transistor radio while working on an addition to the mansion whirled and ran toward him, gibbering.

The Attorney General identified himself. "I have news for you," Hoover said tonelessly. "The President's been shot." There was a pause. Kennedy asked whether it was serious.

"I think it's serious. I am endeavoring to get details," said Hoover. "I'll call you back when I find out more." The Director hung up. The Attorney General hung up. He started back toward his wife and his two mystified guests, who were beginning to understand the workman's babbling. Midway toward them, Kennedy stopped. It had hit him. His jaw sagged. "Jack's been shot!" he

continued

said, gagging, and clapped his hand over his face.

Like the President, Bob Kennedy disapproved of public displays of private feeling, and none of the friends who were about to gather in the yard at Hickory Hill saw him break. Nevertheless, there were intervals when he had to turn his back and look away toward the bathhouse, the tennis net, the gnarled trees, the tree house—to wherever there were no eyes to gaze back. His first thought was to fly to the side of his wounded brother, and after alerting Robert McNamara to the need for immediate transportation, he darted upstairs to change his clothes.

CAROLINE KENNEDY was in Liz Pozen's car pool, on her way to spend her first night away from home as a guest of Liz's daughter Agatha. Liz turned on Washington station WGMS and heard eight words: ". . . shot in the head and his wife Jackie. . . ." She instantly switched it off. To the best of her later recollection, the volume was low and those were the only words spoken. The children, she was convinced, heard nothing.

Caroline's subsequent remarks to Secret Service Agent Tom Wells suggest that there may have been more to the broadcast than Liz thought, but at most, it would have been hazy; all bulletins were hazy then. Certainly, the President's daughter could have had no grasp of what had really happened; Liz herself did not know.

Wells was following Liz Pozen in an unmarked Ford. His commercial radio was on, and as they were passing the National Zoo, the program to which he was tuned was interrupted for the nebulous flash, "We have an unconfirmed report of a shooting in the area of the Presidential motorcade in Dallas." Through his windshield, he rapidly scanned the station wagon, but Liz was too small to be seen from here, and the children, below window level, were invisible. It was as though all the occupants had been mysteriously spirited away, leaving the station wagon to cruise madly toward Chevy Chase Circle under its own power.

Liz Pozen was out of touch. Switching her set on again was unthinkable. She recognized one danger: A stranger in a passing car, hearing the news on his own radio, might see Caroline, recognize her from her pictures and act rashly. She peered out furtively at southbound drivers. They were impassive. Wells's station had resumed its regular program. Four blocks beyond the zoo, there was another break—the network was speculating that some members of the Presidential party, perhaps even President Kennedy himself, had been shot. Nothing was firm.

Stopping did not occur to Liz, and in the absence of any sign from her, Wells could only cling to her rear bumper. They passed through a half mile of green lights before one turned red; then, braking together, they flung open their doors and met between the two cars.

"Did you hear the broadcast?" he asked.

She nodded once quickly.

"Turn off your radio."

"I already did." She searched his face. "What should I do?"

"Nobody knows whether or not it's serious. Keep going."

The traffic signal changed; they drove on. Talking into his microphone, the agent called, using the code names for the White House, for himself and for Caroline: "Crown, Crown from Dasher. Request immediate instructions regarding Lyric in view of the present situation in Dallas. Over." Crown was silent. Then: "Stand by."

Due to UPI's speed, Liz Pozen and Tom Wells, cruising toward Maryland, knew more than those who should have advised them. White House detail chief Jerry Behn's lines were tied up because he was talking to Roy Kellerman. In Chevy Chase, Liz and Wells held their second conference. Since he had no "procedural instructions," he told her, they would continue with the car pool. His own thoughts were beginning to jell, however. Wells had convinced himself that he must spoil Caroline's visit to the Pozens. His next task was to convince his superior. "Dasher to Dresser. I feel the danger has grown. We don't know whether this is an isolated thing, a plot, or a coup. If it's a coup, Washington is sure to be a part of it, and I want Lyric back in a secure setting. We'd be primed for a snatch, and in lieu of anything to the contrary from you, I'm taking Lyric back to Crown."

It was not an easy judgment, nor would it be popular. Nevertheless, it made sense to Agent Bob Foster at the White House. He agreed that "They might be trying to kill the whole family." He conveyed the decision to Maude Shaw, the children's nurse, who was skeptical of it.

The greatest skeptic, however, was going to be Liz Pozen. Wells, expecting her to be difficult, reached a second judgment; to avoid discussion, he would say that he was acting under orders. Their third huddle was both distressing and hectic. He was so distracted that he forgot his emergency brake, and halfway toward her, he caught a horrified glimpse of the Ford slowly rolling downhill. He caught it after a sprint, set the brake, and returned. "I have to take Caroline back to the Mansion." "Why?" she cried. "Security reasons." She was even more stubborn than he had anticipated. Now that they were out of heavy traffic, she reasoned, the chances that Caroline might be spotted had diminished. Liz very much wanted to keep her. She had a case; it was inconceivable that an outsider could have discovered these arrangements, and this was no time to upset Caroline.

"It's not my decision," he said. "I have no alternative." Stepping past her, he put his head in the station wagon and said, "Caroline, you have to go back to your house. You better bring your overnight bag. Maybe you can come out a little later." To Liz, he seemed needlessly brusque and businesslike. Caroline shrank back. She said, "I don't want to go."

He opened the rear door and picked up the suitcase. "We don't have any choice. Something has come up. Miss Shaw will probably tell you."

"Yes, I know what it's about," she said. He gathered that she had heard a broadcast. Hugging the bear and fighting back tears, she climbed over the seat toward him. Liz kissed her; Wells put her on the front seat beside him and left. A quarter mile south of Chevy Chase Circle, Caroline looked up at him. "Why do we have to go home?" she asked. Before Wells could reply, she said again, "Never mind. I know."

"Mommy has changed her plans and will probably come back to the White House tonight," he said. "She wanted you and John to be home." Caroline again fell silent.

Reentering the Rock Creek Parkway, the agent became absorbed in a new, frightening complication. The specter that had plagued Liz Pozen became a reality: Another motorist recognized Caroline. They were passing a light-green sedan when the driver glanced over and started visibly. He was a burly man in his early fifties, wearing a hat and what appeared to be a lumber jacket. Once the man had recovered, he decided to give chase, and the agent immediately began trying to shake him. The man was taking a chance. Tom Wells was one of the best marksmen in the White House detail, and he was in a dangerous temper. Yet the anonymous driver's response was courageous and understandable. The black Ford carried no official markings, and anyone seeing the President's six-year-old daughter speeding away with an unidentified man in the minutes after the shooting might easily have concluded that she was being abducted.

The agent, on the other hand, had no way of determining the motives of his pursuer. He couldn't ask specific questions of Crown without alarming the child beside him. Perhaps his fear of a coup was being vindicated this very moment; perhaps the strange sedan was part of it. Wells damned the White House garage for failing to provide him a car with a red light under the car frame—or with a portable, pistol-grip flashlight that illuminated the black-on-red letters "POLICE." In its absence, he was left with but one choice: flight. He swerved to the left. His pursuer also accelerated, and was at one point a few feet from his right rear bumper. Gradually, Wells drew away. He cut in and out skillfully, allowing other traffic to filter between them, and when he reached the parkway's Virginia Avenue exit, there was no trace of the green sedan in his rearview mirror. At 2:13 Washington time, 46 minutes after their departure, Tom Wells swept Caroline past the pallid guards at the southwest gate.

BERNARD WEISSMAN, the young right-wing salesman who had signed the full-page advertisement in that morning's Dallas *News,* heard the news while driving in downtown Dallas with a friend. As he later testified, fearful that he would be blamed, he holed up in a bar for four hours, saying of the assassin, "I hope he is not a member of the Walker group—I hope he's not one of Walker's boys."

IN IRVING, Texas, Marina Oswald and Ruth Paine had heard the news over the Zenith set Lee had been watching the evening before. Ruth translated for her friend and lit a candle. "Is that

a way of praying?" Marina inquired. "Yes, it is, just my own way," Ruth replied. Marina went into the yard to hang some clothes. The newscaster reported that the shots had come from the Texas School Book Depository, and Ruth went out to translate this too. Marina said nothing, but she furtively checked the blanket roll in the garage. Seeing it there, not knowing it was empty, she whispered to herself, "Thank God."

FOR MOST PEOPLE at Parkland, the arrival of a priest was the first sign of the finality of the tragedy. Nearly all saw his black habit, the universally recognized chevron of death. Mac Kilduff whispered to Albert Thomas, "It looks like he's gone."

Only Mac Perry didn't notice the new arrival. The father walked right past him, but Mac was unaware of it. His brown eyes glazed with exhaustion, the surgeon was concentrating intently on a perfectly blank patch of tile wall.

The Very Rev. Oscar Huber went directly to Jacqueline Kennedy. He murmured his sympathies—he was breathing hard—and took up a position next to her. In cases of sudden death, he always used the short form of the last anointing, and here, he mechanically followed custom. He hadn't referred to his prayer book once. Dr. Burkley blurted out, "Is that *all*?" The doctor had never challenged a priest before, but the brusque ceremony offended him. It bore an uncomfortable resemblance to the rapid by-the-numbers procedures of the nurses.

The passing of a President, he felt, ought to be a more solemn occasion. "Can't you say some prayers for the dead?" he asked. Father Huber hurriedly chose several in English. Ordinarily, he would have knelt, but the floor, he saw, was one vast bloodstain; he didn't know that Jacqueline Kennedy had already been to her knees here, so he merely folded his hands, inclined his head, and began by murmuring the first half of the Lord's Prayer. The widow and the physician, the only other two Catholics present, responded with the second half. The nurses bowed in silence.

TO SECRET SERVICE Agents Rufus Youngblood and Emory Roberts, preoccupied with thoughts of a plot, every room in Parkland Hospital looked like a trap. When Youngblood appealed for a quiet place for the Johnsons to get away from the crowd just after they reached the hospital, a nurse led them into minor medicine.

Mrs. Johnson followed the nurse with mounting alarm. The Secret Service had previously provided Johnson with only token protection, and the sudden change seemed ominous. The maze they were following multiplied Mrs. Johnson's fear. She knew she couldn't possibly retrace her steps without help. Furthermore, Youngblood, in securing the area, was eliminating the few landmarks that might have been useful. A Negro man lay in a bed to their left. "Move him," Youngblood told the nurse. He told the other agents, "Close all blinds."

When the Johnsons drew up at the end of a ward, they had the impression that they had reached the interior of the hospital. Actually, they had been following a great circle. Had the shade in the ward's single window been raised, they would have discovered that they were standing just a few feet from the ambulance dock.

Minor medicine's Booth 13 was the quietest place on the floor, but it was unoccupied only because it was close to the emergency-area entrance. This wasn't quite what Youngblood had had in mind when he asked for a quiet place. If a second assassin had trailed the motorcade here—and, in the turmoil, his only difficulty would have been finding a place to park—his prospects of success would have been fairly good. Although he couldn't have seen his target, the window beside Booths 12 and 13 was the only one on the first floor of that side of the building, and its drawn blind attracted further attention to it. Little cunning would have been required to guess that inside, within range of an automatic weapon or a grenade, stood John Kennedy's successor.

CHAPTER SIX

HE STOOD WITH his broad shoulders braced against a blank wall, sniffing from a vapor inhaler that he always carried to clear his nasal passages. Bowing his head, he pinched one nostril, breathed deeply, then repeated the process. Mrs. Johnson was resting her back against the tangential wall, watching him. "Lyndon and I didn't speak," she recalled later. "We just *looked* at each other, exchanging messages with our eyes. We knew what it might be."

Nevertheless, they weren't sure exactly what had happened. They waited indecisively, craving information like everyone else. Johnson sent for Agent Roy Kellerman. "Roy, can you tell me the condition of the President?" Johnson asked.

"President Kennedy has been hit," Kellerman said. "He is still alive. The condition is not good."

"Will you keep me advised?"

"Yes, sir."

Kellerman meant to keep his promise, but he never saw that part of the floor again. When he returned to major surgery, his hands were full.

Aide Ken O'Donnell thrust his head into Booth 13. "It looks pretty black," he said. "I think the President is dead." Johnson didn't reply.

An agent scurried off to a vending machine and brought coffee to the Johnsons. Mrs. Johnson, who always carried notebooks to record what she called her "never-to-be-forgotten moments," had produced one from her purse and was rapidly writing down her impressions.

Another agent asked Youngblood to make a call. "I'm not leaving this man for anybody," he said crisply. He did, however, want to leave Parkland. From the moment they had reached the ambulance dock, he had been plotting a getaway. Not only the hospital, but the entire city of Dallas had become an abomination to him. He was a man of exceptionally strong will, and he felt keenly that he couldn't meet his responsibilities to Johnson as long as they remained here.

Staying in Dallas was an insane risk, he felt. They should head for Love Field immediately. Emory Roberts agreed, and the two agents pressed their view on Johnson.

To them, the issue seemed simple. Yet in it lay the first germ of what later became a series of misunderstandings. For those who had been close to the slain President, it was impossible fully to appreciate the tremendous shock, the sudden pressure inflicted on the new President. While he had already succeeded to the office, he didn't realize it, and the slumped figure in Booth 13 bore little resemblance to the shrewd, assured President Johnson the country came to know. Dazed, silent, he was far readier to take orders in Parkland than to issue them. His poise had dissolved. In a feeble whisper, he said to Congressman Homer Thornberry, "This is a time for prayer if there ever was one, Homer."

Two factors increased his muddle. Johnson wasn't the only man incapable of coping with the fact of his succession. Kennedy's grieving staff couldn't bear to face it either. As Air Force Aide to the President, Brig. Gen. Godfrey McHugh was the logical man to coordinate air transport back to Andrews Air Force Base. Twice, agents asked him to speak to Johnson, and each time he refused, merely pointing out that the Vice-President had his own plane. The second factor was the absence of Jerry Behn, the head of the Secret Service White House detail. In deciding that he would not make each Presidential trip, Behn had not only broken precedent, he had left his agents without a leader. Had he been present, the bodyguards in minor surgery would never have dreamt of acting without his consent. But Behn was in the East Wing of the White House, gripping a telephone receiver and awaiting news from Roy Kellerman. Kellerman was his deputy. It is conceivable that a more tenacious deputy might have imposed authority over all the Secret Service men in Dallas, though that point is moot; Youngblood had the bit in his teeth. Of all the agents there, he had the quickest tongue and one of the clearest minds. He had Johnson's confidence. He and Roberts had a plan, and neither was in the mood to defer to Roy Kellerman. Although he was the agent in charge at Parkland, Kellerman wasn't told that the new President was to be taken from the hospital.

In Booth 13, Roberts told Johnson that he had seen Kennedy's head wound. "The President won't make it," he said. "Let's get out of here."

"We don't know the scope of this thing," Youngblood said. "We should get away from here immediately."

"Is Carswell possible?" Johnson asked hes-

continued

itantly, referring to the Strategic Air Command base near Fort Worth.

Youngblood sent Agent Lem Johns to ask a local policeman the route there, but when Johns returned, everyone agreed that the SAC base was too far. "We've got to get in the air," Roberts persisted.

Still hesitant, Johnson said, "Maybe President Kennedy will need the airplane."

No one asked which airplane he had in mind. The discussions in Booth 13 were based on the astonishing assumption that only one Boeing 707 was parked at Love Field. In reality, the situation there was unchanged. Neither the Presidential plane—number 26000—nor the Vice-Presidential plane—number 86970—had been moved. Each carried the same equipment, both were guarded. Nevertheless, from this point forward, the backup plane was forgotten. Johnson and his agents thought only of 26000, Angel, Air Force One—the aircraft identified with John F. Kennedy. Johnson did not want to seem presumptuous and told the agents that he would not move without approval from a member of Kennedy's staff, preferably Ken O'Donnell. Roberts sought out O'Donnell in major medicine.

"Johnson wants to go," he said. "Is it OK if he uses the plane?" O'Donnell nodded, and Roberts reported back to Johnson, "Ken says it's OK." Johnson still waited. Then, at 1:13 p.m., Emory Roberts said to him: "The President is dead, sir."

Johnson, in shock, said to his wife, "Make a note of the time." Then he added, "We're leaving. We'll go as quietly as possible." Youngblood told Agent Johns, "Get an unmarked car and find a policeman who knows Dallas like the back of his hand."

"I must go see Mrs. Kennedy and Nellie," Mrs. Johnson said. Her husband not only agreed, he wanted to accompany her. Youngblood was still very much in command and told the new President that he could not leave this ward.

As Father Huber opened the door of his car, a group of reporters surrounded him. "Is he dead?" Hugh Sidey of *Time* asked.

The priest took a deep breath. "He's dead, all right," he said. But there had been no official word, and a report from an unknown priest was not conclusive.

A statement could not be postponed indefinitely. While Father Huber's indiscretion was unknown in the emergency area, it was hardly surprising. The secret could not be kept long. Too many people had been in the trauma room. Already, Kilduff had sought out Ken O'Donnell. He had asked, "He's dead, isn't he?"

In a syllable, O'Donnell confirmed it.

"This is a terrible time to have to approach you on this," Kilduff said, "but the world has got to know that President Kennedy is dead."

"Well, don't they know it already?"

"No, I haven't told them."

"Well, you are going to have to make the announcement. Go ahead," O'Donnell said. "But you better check it with Lyndon Johnson."

An agent guided Kilduff through the white jungle of minor medicine. At the end of the last right turn, Kilduff saw the broad back of Kennedy's constitutional successor. He cleared his throat and said, "Mr. President."

It was the first time that anyone had so addressed Johnson. He turned and, according to Kilduff's later recollection, "looked at me like I was Donald Duck."

Kilduff asked permission to make a statement. Johnson shook his head. "No. Wait. We don't know whether it's a Communist conspiracy or not. I'd better get out of here and back to the plane. Are they prepared to get me out of here?"

The Secret Service was prepared, and he knew it, but he wanted to be certain he had left Parkland before reporters were informed. After a flurry of conferences with agents, Kilduff understood. At 1:20, he approached Johnson again and told him, "I am going to make the announcement as soon as you leave."

"Yes," said Johnson. "As soon as I leave, you announce the death."

Kilduff walked out the emergency entrance with him. As soon as they reached the sunlight, reporters bayed, "What can you tell us?" Lowering his head, Kilduff bulled through them and plodded off across the grass, toward the rooms where most of the press were gathered.

At first, Kilduff, red-eyed and tremulous, was unable to speak. Incoherently, he thought, *Well, this is the first press conference on a road trip I have ever had to hold.*

"Excuse me," he said, "let me catch my breath." He caught it. There was another, longer pause. At 1:33, he moistened his lips. "President John F. Kennedy—"

"Hold it!" called a cameraman, and a lens clicked.

"President John F. Kennedy died at approximately one o'clock Central Standard Time today here in Dallas."

At 1:35, UPI bells chimed on teletype machines around the world:

FLASH
PRESIDENT KENNEDY DEAD
JT135PCS

Ken O'Donnell made a second trip to Booth 13 and confirmed Kennedy's death to Johnson. According to Johnson, O'Donnell twice urged him to board Air Force One. It is Johnson's recollection that he consented, with the stipulation that he would wait at Love Field until Mrs. Kennedy and the body of President Kennedy were brought to the plane.

O'Donnell declares this version to be "absolutely, totally and unequivocably wrong." He says that Johnson raised the possibility of a conspiracy. "I agreed that he should get out of there as soon as possible," O'Donnell says. "He asked me whether they should move the plane—meaning, I thought, Air Force Two—to Carswell Air Force Base. I said no; it was 35 miles to the Air Force base, and it would take too long to move the plane. Besides, no one would know that he was going from Parkland Hospital to Love Field anyway; they had no way of knowing." Concerning 26000, O'Donnell says, "The President and I had no conversation regarding Air Force One. If we had known that he was going on Air Force One, we would have taken Air Force Two. One plane was just like another."

Youngblood supports Johnson, but O'Donnell was clearly dumbfounded when, an hour later, he encountered the Johnsons on 26000. It is entirely possible that Johnson mentioned "the plane" to O'Donnell in connection with Carswell, and that the new President thought that he and Ken were talking about the same plane. What is highly unlikely is that O'Donnell would have suggested that Johnson await Mrs. Kennedy when a second aircraft was available. Ken knew Johnson was anxious to take off immediately. He also knew that President Kennedy's widow would not depart without his body and that she would, therefore, be delayed. The discrepancy between the two versions is probably a consequence of confusion, though there is an alternative. The new Commander in Chief may have been determined to maintain the closest possible association with the fallen Commander in Chief during what might well become a national emergency, and he may have supposed that O'Donnell understood and shared his concern.

Dallas Police Chief Jesse Curry had surrounded Love Field with his policemen. Two unmarked cruisers were waiting outside Parkland, with their motors idling and Curry himself behind the wheel of the first one.

In the nurse's station, Godfrey McHugh was smoothing the way for what he believed would be exclusively a Kennedy flight. He phoned the pilot, Col. Jim Swindal, ordering him to move to another part of the Dallas airport as a security precaution. After talking to a Dallas police captain, Swindal wisely ignored this instruction. He was already in Love's safest spot. How safe that was is debatable.

At Love Field, Col. George McNally, chief of the White House Communications Agency, was unimpressed by the protection offered to the new President by the Dallas police, who "were running around with goofy looks." If a number of people had been acting in concert with the assassin, McNally said, "the conspirators could have had the plane and everything."

In the next issue of LOOK, William Manchester describes the desperate rush from Parkland to Air Force One by the car carrying Lyndon Johnson, the dispute between Kennedy aides and a Dallas official over the removal of the President's body, and the abrasive relationship between Kennedy and Johnson partisans during *A Troubled Flight From Dallas.*

THE DEATH OF A PRESIDENT
BY
WILLIAM MANCHESTER
PART THREE

LYNDON JOHNSON'S departure from Parkland Hospital resembled one of those Chaplinesque farewells in which the only people who wind up on the mobbed train are those who have come down to see their friends off. The exodus was accompanied by episodes of disorder, hubbub and unexpected bungling.

"Suddenly," said Congressman Henry Gonzalez, "I saw the might and power of the United States in complete confusion."

Congressman Albert Thomas, quite by accident, wound up in the lead car as a human shield. Agent Rufus Youngblood led the new Chief Executive to Dallas Police Chief Jesse Curry. The threat of a plot still obsessed the agent, who had insisted upon two automobiles. If a sniper recognized Mrs. Johnson, he would be shooting at the wrong car. Youngblood put Congressman Homer Thornberry beside Chief Curry, got in back with Johnson and told the President to crouch below window level. Because Johnson obeyed, Congressman Thomas, emerging from the hospital, didn't see him.

"Stop!" Thomas shouted.

"Keep going," Youngblood called to Curry.

From the floor, Johnson inquired, "Who is it?" The agent told him, and Johnson, asserting himself for the first time, said, "Then stop." Making the best of the delay, Youngblood decided to use every inch of flesh as protection. He directed Thomas to sit in front, pulled Thornberry into the rear, and arranged Johnson's shoulders so that he was in the middle. Any bullet aimed at the President would first have to pass through Curry, or one of the two congressmen, or Youngblood. "We took off," Texas Congressman Jack Brooks later recalled, "like a striped-assed ape."

Actually, there were several exasperating delays. Curry had just begun to accelerate when a delivery truck appeared out of nowhere and halted right in front of him. The agents went for their guns, but the deliveryman was guilty only of extremely bad traffic manners. A moment later, Curry destroyed the purpose of the unmarked cars by hitting his siren. "Stop that!" Johnson and Youngblood yelled together. The Chief did. The motorcycle escort, however, had picked up his cue; the wails were audible for over a mile, and Curry had to radio them to cut it out.

Thereafter, things went more smoothly, though at times they had to slow to a crawl. To those who were listening intently for rifle shots, these pauses were almost unbearable, and the trip seemed longer than it was.

As they alighted at Love Field, Youngblood shouted, "Everybody run up the steps!" Everybody did, and then Johnson headed for the television set, which was tuned to Walter Cronkite.

"Close all shades on the plane," the President was calling. "Close the shades," Youngblood echoed—a subtle change from Parkland.

Obeying, an agent beheld a remarkable sight: an automobile, in violation of all military and civilian safety rules, was racing toward him across the breadth of Love Field. It was the last car in President Johnson's first motorcade. No one in it had protested when Agent Lem Johns, who thought that Aircraft 26000 had been moved to Love's private-plane terminal, cried in exasperation, "Hell, we're on the wrong side of the airport! Let's shoot the runways." The control tower looked down in awe as they veered across the expanse of oil-stained concrete, their siren screaming, and swerved up beside the ramp.

With this hair-raising arrival from Parkland, the Youngblood breakout, as it might be called, was complete. Parkland didn't know it, though. Most of the agents and aides in the emergency area were under the impression that the group that had begun the grand tour of Texas at San Antonio International Airport the day before was intact. And when they did hear of the lightning move later, they were indifferent to it. The man they still regarded as President lay dead; they couldn't think beyond that.

To those who loved John Kennedy, the transition of power seemed needlessly cruel. Consolidating the two groups on one airplane was to prove extremely unfortunate, and aspects of Johnson's behavior in a very understandable state of shock may have proven exacerbating, but the difficulty there was largely one of manners and mannerisms. Johnson was not himself that afternoon—no man was himself then.

In Dallas, the national interest required strength, not elegance, and it is arguable that Johnson, far from taking over too quickly, did not take over quickly enough. The United States needed a President, yet neither he nor his advisers had fully grasped the fact of Kennedy's death. Jack Valenti spoke for the majority of them when he burst into 26000's stateroom and said, "I got here as quick as I could, Mr. Vice-President."

OVER THE FAR PACIFIC, another Boeing 707, identical to Air Force One, was racing homeward with six members of the Cabinet. Orville Freeman slumped in his seat beside Janie Freeman. She reached over and squeezed his hand. "I'm so glad you weren't made VP in L.A. I'm selfish."

He nodded. Then his mind raced back to the convention in Los Angeles, when he had been mentioned as a possible Vice-Presidential candidate. Had events taken a different turn, Freeman reflected, the new occupant of the White House might well be named President Orville Freeman. He mused absently, *Isn't that something?* On a pad, he scribbled Janie's remark and added beneath it: "Thought then in my mind too—What if, what would I do."

FOR JOHN MCCORMACK, the confirmation of John Kennedy's death was a private anticlimax. The Speaker was in the House restaurant when two reporters came to his table and said that Kennedy had been shot. Other reporters and congressmen then began to dart up with bits and pieces of information. Reports of the appearance of priests at Kennedy's bedside convinced McCormack that the President had succumbed. Then, in the next minute, he was told that the Vice-

continued

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PAGINATION INCORRECT

President had been shot and, in the minute after that, that Secret Service agents were on their way to the Hill to protect him. Under the succession act of July 18, 1947, the Speaker was second in line of succession, and if both Kennedy *and* Johnson had been murdered, McCormack was now President of the United States.

The possibility struck McCormack, he later recalled, with "a terrific impact." He rose unsteadily from his chair and immediately suffered a severe attack of vertigo. Linen, waiters, tableware swam before his eyes; he thought he was going to lose consciousness and tumble to the floor. Passing a palsied hand over his eyes, he sank back to his seat, and he was still there, trembling, when a congressman called over that Johnson was unharmed.

SEN. BARRY GOLDWATER, who admired and liked John Kennedy, expressed his outrage and canceled all his public appearances. Not all Goldwater admirers shared his wrath, however. An Oklahoma City physician beamed at a grief-stricken visitor and said, "Good, I hope they got Jackie." In a small Connecticut city, a doctor called ecstatically across Main Street—to an internist who worshiped Kennedy—"The joyride's over. This is one deal Papa Joe can't fix." A woman visiting Amarillo was lunching in a restaurant when a score of students burst in from a high school directly across the street. "Hey, great, JFK's croaked!" one shouted with delight, and the woman, leaving as rapidly as she could, noticed that several diners were smiling back at the boy. In a wealthy Dallas suburb, the pupils of a fourth-grade class, told that the President of the United States had been murdered in their city, burst into spontaneous applause.

During a meeting at the Cosmos Club that was brought to the attention of the FBI in Washington six months after the tragedy, a retired Marine Corps general told an admiring group of retired military officers: "It was the hand of God that pulled the trigger that killed Kennedy."

BOB KENNEDY HAD been dressing for a flight to Dallas when he received word that the brilliant world he had known and loved was finished.

The White House extension on the desk at his home in Virginia rang, and he dove for it and listened for a moment. The call was from Capt. Tazewell Shepard, the Presidential Naval Aide.

"Oh, he's dead!" he cried. And then he added to Ethel and CIA Director John McCone, "He had the most wonderful life." Later, that would be his wife's most vivid recollection of his response—how, in the starless night, he remembered how bright the sun had been.

Bob, Ethel and McCone descended the stairs and walked to the rear porch. Kennedy poked his head in a window of the living room, where several close friends were watching the television commentary. "He died," he said in a low voice and walked toward the pool. The extension out by the pool rang. It was J. Edgar Hoover. The most important detail he had promised to try to get during an earlier conversation with the Attorney General had just come through. "The President's dead," he said snappily and hung up.

He expressed no compassion; he did not seem to be upset. Ordinarily garrulous, Hoover had suddenly turned curt with his superior.

It would be charitable to attribute the swift change to the stresses of that afternoon. Yet, although Bob Kennedy continued in the Cabinet for over nine months, Hoover, whose office was on the same floor, never walked over to offer his condolences. One of his assistants wrote Kennedy a moving letter, and the agents in the FBI's crime squad sent him a message of sympathy, but their Director remained sphinxlike.

OUTWARDLY, BOB KENNEDY was more collected than his callers, most of whom had rushed over on impulse and found on arrival that they didn't know what to say. To some of his friends, his manner suggested that he was more concerned with their loss than with his own, an attitude that was to be characteristic of Jacqueline Kennedy throughout the weekend, and that, for many, was shattering. "We don't want any gloomy faces around here," he told Dave Hackett lightly, and his greeting to his aide Ed Guthman, ten minutes after the call from Hoover, was almost casual. "How are you doing?" he asked.

"I've seen better days," Guthman replied, adopting his low key.

"Don't be sad."

"Pretty hard not to."

CHAPTER TWO

WHEN JACK VALENTI entered the stateroom of Air Force One, the attention of the Vice-President, as everyone continued to call the new President, was riveted on the television screen. Johnson was hoping that Walter Cronkite would tell him what was going on. Those who have never been in the eye of an historic storm may find this hard to believe, but the value of even the most perceptive eyewitnesses comes later, when their recollections can be matched against one another in tranquillity. As long as events are still unfolding, the observations of each individual are as meaningless as a single jagged fragment in a thousand-piece jigsaw puzzle.

There are certain situations in which the fitting of grooves can begin at once. That is the job of intelligence, and it would have been possible if the assassination had occurred in the White House, with its magnificently equipped Situation Room. In Dallas, however, there was no situation room, only the situation itself. If Dallas had been surrounded, the New York studios of CBS would have been a lot likelier to know of it than anyone within shouting distance of the thirty-seventh Vice-President, now become the thirty-sixth President, of the United States. At that moment, however, the networks knew nothing Johnson did not know. He turned away, relieved. The big picture was not as frightening as it had seemed in imagination, unless, of course, the commentators were also in the dark.

Actually, much was happening that was unknown to both Johnson and Cronkite. Twenty minutes before the Johnson party boarded the plane, a policeman named J. D. Tippit had been shot to death two miles from the Texas School Book Depository. Another forty minutes were to pass before anyone saw the significance of Officer Tippit's death. It was logical to suppose that the great crime had been committed by a great criminal, backed, perhaps, by a criminal nation. If that were true, the grand design would be revealed in a grand fashion, not in the petty killing of a patrolman.

Rufus Youngblood's hour in history was nearly over. Once the new Chief Executive felt secure, the Secret Service was destined to fade back into the shadows, and for Lyndon Johnson, security returned when he had been extricated from the vortex of Dallas. Only a return to the city could renew the threat, and he had no intention of flirting again with whatever dark forces lurked in those sunlit streets. He had been badly scarred. (Ten months later, he was invited to address an American Legion National Convention in Dallas at the height of the Presidential campaign; to the dismay of the Legion and the chagrin of the city's civic leaders, he refused.)

The Youngblood protectorate, which had begun on Elm Street at 12:30, ended in the stateroom of 26000 when the agent first insisted that the Johnson family move directly into the White House upon arrival in the capital. To him, the suggestion was just another safety precaution. Johnson saw that it had other implications, some of them exceedingly delicate, and he flatly rejected it. That was at approximately 1:43 p.m.

On the couch opposite the stateroom desk, Mrs. Johnson fingered her choker of pearls and jotted down notes. She overheard "the agonized voice" of a Secret Service man crying that the Service had never lost a President before, and she "hurt for him." She was aware of her husband, moving restlessly from chair to couch to chair, ordering coffee, bouillon, Poland Water. She intercepted a message from Parkland—Mrs. Kennedy wouldn't move from major medicine without the body. Johnson let it be known that 26000 wouldn't budge; they were going to "wait on" the gallant lady and the coffin.

The stateroom's occupants kept loosening their collars and mopping their foreheads. Mrs. Johnson alone felt chilled. She listened to her husband canvassing three congressmen on the question of where he should be sworn in. He was requesting their opinions without disclosing his own. Jack Brooks, an impulsive ex-marine, was a partisan of the instant oath. Homer Thornberry coun-

tered, "Let's wait until Washington." Albert Thomas sided with Brooks. "Suppose the plane is delayed?" he asked Johnson, echoing the convictions of the correspondents at Parkland. "The country can't afford to be without a President while you're flying all over the country." The debate itself was probably of little consequence. Johnson's mind seemed to be made up. To Thomas, he said, "I agree. Now. What about the oath?"

They looked blank. Throats were cleared, limp ties loosened, but no one spoke. Here he was seeking not a consensus but hard information, and the Texas congressmen hadn't any. The best they could offer were fuzzy memories of textbook engravings of Chester Arthur or Calvin Coolidge who, in the dancing illumination of defective lamplight, had affixed his hand to a shabby family Bible while strangers in old-fashioned nightshirts stood around gaping. Everyone agreed that there was an official in the picture. His identity, however, was obscure. He could have been a Supreme Court justice or a notary public. The oath itself eluded them entirely.

Johnson was not limited to the passengers in 26000's main cabin, however. Learning that the communications shack was in contact with Washington, he eagerly looked around for telephones. The closest one hung from a hook on the other side of the aisle. He ignored it. Possibly, he could not yet bring himself to sit at Kennedy's stateroom desk, though the more plausible explanation is that he wanted solitude. In any event, the instrument he did use was also on a Presidential desk. It was, indeed, in Kennedy's private quarters, which, as he had told Mrs. Johnson and Air Force One steward Sgt. Joe Ayres earlier, he preferred to avoid.

Although he himself informed this writer that he could not even "recall the precise sequence of calls" that he made, he was never entirely alone, and in all important instances, there are the recollections of the person to whom he talked. A moment after Lyndon Johnson found the telephone, the first issue of his administration arose. It was a prickly one, because the man to whom the new President now turned was the one member of the Cabinet who was entitled to sit out the transition.

The question Johnson had asked of the congressmen was constitutional, which meant that it had to be resolved by the lawyer who had been John Kennedy's Attorney General and was now automatically Lyndon Johnson's. That he should be the dead President's brother was cruel mischance, yet the incoming Chief had no option. Seated at the end of Jacqueline Kennedy's bed, with Rufus Youngblood standing against the wall, he accordingly placed a call to Robert Kennedy in Virginia.

Johnson began by expressing his condolences. But he had just become the busiest man in the world, and after a few compassionate sentences, he plunged into business. The murder, he said, "might be part of a worldwide plot." In Johnson's statement to the Warren Commission seven and a half months later, he suggested that the Attorney General had agreed with this interpretation and had "discussed the practical problems at hand—problems of special urgency because we did not at that time have any information as to the motivation of the assassination or its possible implications."

In fact, Kennedy was unresponsive. He was not among those who suspected a grand conspiracy, and he didn't understand what Johnson was talking about.

"A lot of people down here think I should be sworn in right away," said the new President, moving closer to the point. "Do you have any objections to that?"

Kennedy was taken aback. It was scarcely an hour and a quarter since he had first heard of the shooting, less than an hour since he had learned that the wound had been fatal. As Attorney General, he couldn't understand the need for a rush, and on a personal level, he preferred that any investiture be deferred until his brother's body had been brought home.

"Congressman Albert Thomas thinks I should take the oath here," said Johnson, citing support. "A lot of other people feel the same way." The phone by the Kennedy pool remained silent. Kennedy did not dissent; he said nothing. Changing to another tack, Johnson again referred to the plot, and then he requested information. According to Youngblood, he asked "questions about who, when and how he should take the Presidential oath." Kennedy heard, "Who could swear me in?"

"I'll be glad to find out and call you back," he answered.

He depressed his receiver and asked the operator for his deputy, Nick Katzenbach. He told Nick, "Lyndon wants to be sworn in in Texas and wants to know who can administer the oath."

"My recollection is that anyone can administer the oath who administers oaths under Federal or state laws," Katzenbach said. "Do you want to hold on while I check?"

Bob did, and using another line, Nick called Harold Reis in the Department's Office of Legal Counsel. "That's right," said Reis. He reminded Katzenbach that Coolidge had been sworn by his own father, a justice of the peace, and he added, "Of course, the oath's in the Constitution."

He was the man Johnson should have been talking to. A great many eminent attorneys, Robert Kennedy among them, were so shaken that they had forgotten where they could lay their hands on the oath.

Waiting for the Attorney General to phone back, Johnson was using other lines in an attempt to find out what was in any copy of *The World Almanac*. While he was talking to Presidential aide McGeorge Bundy, Nick Katzenbach had checked back with Bob Kennedy and confirmed his earlier opinion. "Then any Federal judge can do it?" Kennedy asked.

"Anybody, including a District Court judge." Nick added, "I imagine he'll want Sarah Hughes." Sarah was from Dallas, and he remembered Johnson's vigorous lobbying for her appointment.

Inside, in his library, Robert Kennedy signaled the White House operator, who interrupted Johnson's Bundy conversation and connected the new President with his Attorney General. The crux of their exchange is unclear. This second Johnson-Kennedy colloquy has two renditions. According to the President's subsequent statement to the Warren Commission, Kennedy advised him "that the oath should be administered to me immediately, before taking off for Washington, and that it should be administered by a judicial officer of the United States." Youngblood's memory is foggy. He tends to support his superior, with qualifications, but he explains—quite reasonably—that he only heard one voice. Kennedy, who was on the other end, does not remember recommending an immediate ceremony, and it should be noted that such a recommendation would have been inconsistent with his mood. It is his recollection—and that of Ed Guthman, who was with him—that he said, "Anybody can swear you in. Maybe you'd like to have one of the judges down there whom you appointed. Any one of them can do it."

He was asked about the wording of the oath.

"You can get the oath," he said. "There's no problem about the oath, they can locate the oath."

"Fine," said Johnson, and rang off.

But it wasn't fine. He still lacked a text.

In the stateroom, Johnson aide Cliff Carter said to Marie Fehmer, "You'd better go in, he's making calls." She saw Johnson on the bed and sat in the chair facing it. The desk and telephone were between them.

"Write this down," Johnson told her. He dictated brief notes of his talks with his aide Walter Jenkins, with McGeorge Bundy, and with the Attorney General and said, "Now. Let's get Waddy Bullion." J. W. Bullion was a Dallas lawyer who had been counsel to Mrs. Johnson for 23 years. His secretary said he was in Shreveport on business. "Get Sarah Hughes," Johnson said.

Sarah's law clerk, John Spinuzzi, explained that she was out—the last he knew, she was on her way to the Trade Mart lunch. The new President took the receiver from his secretary. "This is Lyndon Johnson," he said tersely. "Find her." Then, to Marie: "Try Irv Goldberg."

Goldberg, another local attorney and veteran of Johnson's Texas political campaigns, was at home watching his television set. The phone there rang; his secretary said excitedly, "The Dallas White House is trying to reach you." Her voice faded and was succeeded by static—it was a very poor connection—and then a faint but familiar voice came on. "This is Lyndon. Do you think I should be sworn in here or in Washington?"

Irv thought rapidly. "I think here."

"Who should do it?"

"Sarah Hughes."

"We're trying to get her here. You try too."

BAREFOOT SANDERS, the U.S. attorney, should have been able to provide the oath. But he had become overwhelmed by finer points of law in the hope of establishing Federal jurisdiction over

continued

an assassin. He was rummaging through statute volumes from three libraries when a clerk said, "Hey, what about the Constitution?" "Of course," said Barefoot, feeling foolish. As U.S. Judge for the Northern District of Texas, Sarah (whom Sanders had finally located) had more legal rank than he did, and she not only had forgotten the Constitution, she had decided that since the essentials of every oath are pretty much the same, the exact wording didn't matter. "I was not afraid," she recalled afterward. "I could do it without a formal oath—I could make one up." Driving toward the airport in her red sports car, she was more concerned about speed. She had known Lyndon Johnson since 1943, and "I knew he would want things in a hurry; that's the way he is."

He also liked things to be done properly, however, and fortunately for those who do not view the wording of the U.S. Constitution so lightly, he was covering all bases. At 2:20—3:20 in Washington—Katzenbach's phone rang. It was the Dallas White House, continuing its tireless search for a lawyer who knew precisely what a President should say on assuming office. "Hold on," Nick said, "and I'll dictate it."

LYNDON JOHNSON MOVED into the stateroom: "I've just talked to the Attorney General, and he has advised me that I should be sworn in here," he told Valenti.

The sound of the television set a few feet away became conspicuous, as though someone had just turned up the volume. At present, the commentators were confused, but in downtown Dallas, the news had just taken a dramatic turn. The police had entered a theater and arrested a man in the killing of policeman Tippit. Five minutes before Katzenbach began dictating the oath to Marie, the homicide squad had learned that their new prisoner worked as a stockman in the Texas School Book Depository and was, in fact, the only Depository employee to have been missing when Superintendent Roy Truly counted heads a half hour after the assassination. The first faint light was entering what had, until now, been a pitch-black maze.

UNDERTAKER VERNON ONEAL is a cumbersome figure in the story of John Kennedy. Squat, hairy, and professionally doleful, with a thick Texas accent and gray hair parted precisely in the middle and slicked back, he was the proprietor of an establishment that might have been invented by Waugh or Huxley. It had a wall-to-wall carpeted Slumber Room, piped religious music, a coffee bar for hungry relatives of loved ones, and a fleet of white hearses—white, because the owner felt that death should never be depressing. A hustling businessman, Oneal had seven radio-equipped ambulance-hearses and his own dispatcher. The dispatcher was tied into the police network because the concern had a contract with the city. In effect, it was a concession. Vernon Oneal handled tragedies east of the Trinity River, and his chief competitor worked the west bank.

On the early afternoon of November 22, 17 of Oneal's staff of 18 men were out to lunch. Oneal gasped when his dispatcher told him that 601 (the call number of the President's motorcycle escort) was reporting a Code 3 (an alarm of the very highest priority). Then the telephone rang. "This is Clint Hill of the Secret Service. I want you to bring a casket out here to Parkland. I want you immediately."

"Hold on—hold on!" Oneal said. "We've got merchandise at all prices."

"Bring the best one you have," said Clint.

Running into his selection room, Oneal chose his most expensive coffin, the Elgin Casket Company's "Britannia" model, 800 pounds of double-walled, hermetically sealed solid bronze, but he couldn't carry it alone. He hurried out to his driveway and stood vigil there until he had collected three returning employees. The four of them eased the massive coffin into the pride of his vehicular fleet—a snow-white, air-conditioned 1964 Cadillac.

At Parkland's ambulance dock, Oneal and Ray Gleason, his bookkeeper, opened the back of the Cadillac. Agents and White House correspondents sprang forward to help them; the coffin was laid on the rubber cradle of one of the undertaker's carts and wheeled down the long corridor. At the wide door, the correspondents stepped back. Agent Andy Berger signaled Ken O'Donnell; they were here.

"I want to speak to you," Ken said to Mrs. Kennedy in an undertone, motioning her to follow him down the passage. She followed him to a door there, and then Pam Turnure saw her reach out like a cat and grab the knob to be sure it was open. She had guessed correctly what was arriving, and that they wouldn't want her to see it. But Ken had made a promise that she would see her husband before the coffin was closed, and she intended to see that it was kept. Surgeon Kemp Clark appeared beside Ken. She appealed to the physician. "Please—can I go in?"

"No, no," he mumbled.

She leaned toward him. "Do you think seeing the coffin can upset me, doctor? I've seen my husband die, shot in my arms. His blood is all over me. How can I see anything worse than I've seen?"

Clark capitulated. "Ah, oh, all right, I know." He stepped aside.

She was right behind Oneal. Crossing the passage, she continued to ponder what she could put with the President. Suddenly, she thought of her wedding ring. Nothing had ever meant so much to her. Unlike her circlet set with emeralds, it was unadorned. It was, in fact, a man's wedding band. The President had bought it in a hurry in Newport just before their wedding. There hadn't even been time to put the date in; she had taken it to a jeweler and had that done later. The ring would be exactly right—provided she could get it off. She attempted to unfasten the left glove and couldn't even work the snap.

They were inside the room now. Apart from the disinfectant and the blistering artificial light overhead, the place was much altered; it was nearly immaculate and almost empty. The audience of a half hour ago had dispersed. Oneal was there, leaning over the burnished coffin. O'Donnell stood in the doorway. Dallas Police Sergeant Bob Dugger had followed her across the threshold. He looked competent, and drawing herself up, she held her wrist toward him. He understood. He found the snap with his thumbnail and unpeeled the glove.

She moved to the President's side and lifted his hand tenderly. Then, when the ring was on, she released his hand and looked down.

THE PRESIDENT had come to Parkland in one clamorous outburst; he was to leave it in another.

Oneal was concerned about the Britannia's pale-satin upholstery; it was immaculate now, but could easily be stained. Motioning to Orderly David Sanders, who was concerned that Mrs. Kennedy's ring might be lost and who had just succeeded in working it over the President's knuckle with cream, Oneal directed him to line the inside of the coffin with a sheet of plastic. Nurses Doris Nelson and Diana Bowron swooped around, wrapping the body in a second plastic sheet. Then the undertaker asked Doris to bring him a huge rubber sheath and a batch of rubber bags. Placing the sheath over the plastic lining, he carefully cut the bags to size, enveloping the President's head in them one by one until he had made certain that there would be seven protective layers of rubber and two of plastic between the damaged scalp and the green satin. All this took 20 minutes. Mrs. Kennedy had returned to her chair, looking, Gonzalez thought, "like a wounded rabbit."

To Henry, and to the rest of the Presidential party, John Kennedy's slender young widow had become a mystic symbol; they had never felt so close to another human being. They supposed that everyone felt the same, and those who learned that they were mistaken were deeply shocked. Henry was the first of them. He was looking down a narrow hallway, toward a room that physicians used to take emergency calls. A fragile nurse, patting a well-cherished head of blonde hair, and a youth with a thin, conceited face were standing there together. They had their arms around one another, a gesture, Henry assumed, of commiseration. Then the nurse smirked. The youth murmured something in her ear, and she giggled. Henry called indignantly, "Show a little respect, can't you?" They looked up, startled, and vanished.

To suggest that frivolity or incivility were dominant at Parkland would be a gross injustice. Most members of the staff were as bereft as their bewildered visitors and were doing their best to shape order out of unprecedented chaos, but accident rooms, like drunk tanks, are unlovely places; some employees inevitably become hard-bitten. There were other incidents that grated: the resonant sound of baritone laughter echoing down one corridor, horseplay between two orderlies in a second, an exchange of colorful language from opposite ends of a third hall.

Jacqueline Kennedy noticed none of this. By now, major surgery's carnival-house floor plan

had been mastered by the Irish Mafia, the agents and the military aides. They had her thoroughly sealed off. None of them liked the place, and there was a general feeling that waiting for the body was unnecessarily cruel for her—a viewpoint she did not share. "You could go back to the plane now," one of them said to her, and she replied again, "I'm not going back till I leave with Jack" —but they believed that she was safe from intruders. Only a freak of chance could break the box they had built around her.

But it was a freakish hour. A Catholic clergyman was probably the one stranger who could slip through the concentric circles of sentinels around her. The outer guards would conclude that the Catholic widow had sent for him; the Boston Irishmen who were closest to her would defer to him. And this is precisely what happened, exposing Mrs. Kennedy to what would be remembered as "the episode of the priest." Later, Presidential aides Ken O'Donnell, Larry O'Brien and Dave Powers wondered whether he had been a real priest. No genuine cleric, they felt, could have behaved the way he did.

He was real enough. Father Thomas Cain was the superior of the Dominican Fathers at the Roman Catholic University of Dallas, six miles from Parkland. He was also an eccentric. An energetic, bespectacled cigar smoker with thinning gray hair and a turkey-gobbler neck, Father Cain was, even on serene days, a man of erratic mannerisms. He talked a great deal, sometimes disjointedly, gesticulating loopingly with his long arms, and he tended to swing between cycles of impulsive activity and remorse. When the academic dean of the university had called him at his priory and told him of the shooting, he had had but one thought—a Catholic President had been wounded, and he belonged at the President's side. The fact that other priests would be closer was irrelevant, for he had something they did not. In a green bag in his office, he kept an ornate crucifix, containing within it a minute splinter from the True Cross encased in plastic. Changing to his robe and collar, Father Cain had pocketed the bag, bounded out to his car and headed for the hospital. He drove the accelerator straight to the floor. It was, he admitted afterward, something of a miracle that he wasn't killed. He left the car in the anarchy of badly parked automobiles and dashed in past the Dallas policemen, the shift commanded by Agent Roy Kellerman, the two uniformed generals and the Mafia. On the way, he heard someone say that the President was dead.

Mrs. Kennedy looked up and saw him hovering over her. His eyes were wild.

"When did he die?"

"In the car, I think," she said haggardly.

Father Cain loosened the bag string. "I have a relic of the True Cross."

He held it out and asked her to "venerate it." She kissed the crucifix, not quite understanding what this was all about. Then he said he wanted to take it in to the President. She thought, *This must mean a lot to this man*, and, *If he wants to give it to Jack, how touching.* O'Donnell nodded; the priest went in. But he didn't leave the relic. He merely walked around, waving it ceremoniously in the air above Vernon Oneal, the nurses, the orderly, the plastic and rubber sheeting and the six rubber head bags.

Coming out, he said, "I have applied a relic of the True Cross to your husband."

She stared. It was still in his hands. She thought, *You mean you didn't even give it to him?*

O'Donnell edged toward him. Father Cain, however, wasn't to be dismissed that easily. He was dancing around in a state of excitement, his larynx bobbing. He pressed her hand and tried to put his arms around her, addressing her by her first name, calling her endearing names and promising to write her a letter. Just as Ken and Larry and Dave thought they had the priest cornered, he jerked away from them. Scurrying back into the trauma room, he pranced around Oneal, pranced out, confronted a group of hospital employees standing against a wall and led them in a recitation of the Lord's Prayer. He returned to Mrs. Kennedy and reached for her hand again. She yanked it away. "Please, Father. Leave me alone."

Now, O'Donnell stalked him in earnest, and now he backed away, clutching the bag. They could hear his voice drifting across a cubicle wall, chanting prayers feverishly. They thought they were rid of him, but he was only a few feet away, and he had no notion of leaving.

CHAPTER THREE

THE LONG burnished coffin was closed and poised on its church truck. Jacqueline Kennedy stamped out a cigarette and began to fidget and look around impatiently. She was ready. The undertaker was ready. Parkland, having done all it could, had turned to new emergencies. Yet they weren't moving. The trauma-room door was propped open, and the IBM clock there revealed that they had been in the hospital for an hour and a half.

"Sergeant, why can't I get my husband back to Washington?"

Bob Dugger knew why, but he wasn't going to brief her. The newest development made Dallas look like a hick town, he thought; as a Texan, he felt humiliated. The other men had tacitly agreed to keep it from her, and amazingly, they were successful; it was the loudest and longest uproar of the afternoon, it raged all around her for over half an hour and nearly ended in a fistfight a few feet from her, yet not until much later, in Washington, did she understand just why they had been delayed so long.

Roy Kellerman had been the first agent to scent trouble. Shortly before the coffin arrived, Roy had been standing in the nurse's station with Dr. George Burkley, the President's personal physician, hanging on to the phone connection with the White House, when a pale, freckled, walleyed man in shirt-sleeves entered, reached for another phone and flipped the receiver off snappily, like a gunman in a Western. He said, "This is Earl Rose. There has been a homicide here. They won't be able to leave until there has been an autopsy."

Father Cain had been a temporary distraction; Rose was a stage heavy. The priest had meant well. At most (as he himself believed afterward), he had been a victim of the national distress. Rose was not a man to be plagued by self-doubt, and he was unaccustomed to criticism from others. He was the Dallas County Medical Examiner, with an office in the hospital. Pedantic and brittle, he had a way of wagging his finger and adopting the stylized tone of an overbearing schoolmaster. He seemed to invite hostility. His colleagues thought him arrogant and smart. He was certainly bright; he knew a great deal of Texas law, and he treated it as revealed religion. *Dura lex, sed lex:* the law is hard, but it's the law. That was his attitude.

Unlike the priest, the doctor was to suffer no feeling of shame afterward. He worked himself into a white-hot anger that afternoon, and he was so sure that he was right that his wrath never ebbed; a year later, the mere mention of the battle he had fought on November 22 was enough to make him tremble. As a physician and a Dallas appointee, he represented both the medical and legal professions. He could be an obstacle of formidable bulk if he chose to be, and he so chose. To him, the situation at Parkland was clear, and clearly outrageous. A man had been killed in Dallas. Other men were trying to remove the corpse, in open defiance of Texas statutes. They were flouting rights of which Dr. Earl Rose was the appointed guardian. Strong action was required, and he meant to take it.

Rose hung up and turned to leave the nurse's station. Kellerman blocked the way. In his most deliberate drawl, Roy said, "My friend, this is the body of the President of the United States, and we are going to take it back to Washington."

"No, that's not the way things are." Rose wagged his finger. "When there's a homicide, we must have an autopsy."

"He is the President. He is going with us."

Rose lashed back, "The body stays."

"My friend, my name is Roy Kellerman. I am Special Agent in charge of the White House detail of the Secret Service. We are taking President Kennedy back to the capital."

"You're not taking *the body* anywhere. There's a law here. We're going to enforce it."

Dr. Burkley argued with Dr. Rose, physician to physician. It was useless. Kellerman, who hadn't moved from the doorway, loomed forward. "My friend, this part of the law can be waived."

Rose, stonewalling, shook his head.

"You will have to show me a lot more au-

continued

thority than you have now," said Kellerman.

"I will," Rose said, reaching for the phone.

He could, too. Now that John Kennedy was no longer a living President, his mortal remains were in the custody of the state. Rose phoned the sheriff's office and the homicide bureau of the police department. Both agreed that an autopsy was mandatory. Under the law, they had little choice. Given the uncertainty of the hour and the absence of Federal jurisdiction, Rose had an ironclad case. Assassination is murder, murder is a felony, and in felonious crimes, he had a legal obligation to Dallas County. That was why he had an office in Parkland Hospital. Justice must be served; when and if captured, the assassins or assassin had rights, among them the right of access to the findings of an impartial postmortem examination. The point is arguable, of course, because by now, it ought to have been categorically clear to Rose that the Secret Service would maintain a vigilant watch over Kennedy's body, and had he been realistic, he should have realized that an assassination without a scrupulous postmortem was unthinkable. Nevertheless, there was area for reasonable debate. His error, which was grave, was that he was not behaving reasonably. Burkley begged him to reconsider.

"Mrs. Kennedy is going to stay exactly where she is until the body is moved. We can't have that."

What Mrs. Kennedy did was of no concern to Rose. She could come or go as she liked. She was alive and had been accused of no infraction of the law. His sole interest was in the cadaver. "The remains stay," he said flatly. "Procedures must be followed. A certificate has to be filed before any body can be shipped out of the state. I can release the body to a Texas JP who will function as coroner, or hold the body and have an autopsy here."

"It's the President of the United States!" Burkley cried.

"That doesn't matter. You can't lose the chain of evidence."

Dave Powers heard about the dispute and came over, incredulous. Rose explained everything to him in detail, then shook his head impatiently when Powers urged him to make an exception in this case. "Regulations," the examiner said, his voice frozen.

Gen. Godfrey McHugh approached Rose and was told, "There are state laws about removing bodies. You people from Washington can't make your own law." McHugh appealed to Dallas Mayor Earle Cabell, who said that he had no authority to intervene; then to a member of Parkland's administrative staff, who said that Rose was absolutely right; then to a policeman in civilian clothes, who suggested that a justice of the peace might be able to do something.

"How long will that take?" McHugh asked.

"Ten or fifteen minutes," the man said.

"When we're ready, we're leaving," McHugh said indignantly.

Burkley suggested that Rose come along on the plane. Rose shook his head; the law made no provision for such a trip. Gen. Ted Clifton remembered that he had talked to Attorney General Waggoner Carr of Texas during the flight to Dallas from Fort Worth on Aircraft 26000, and he asked that he be paged over the PA system. The page was broadcast. Carr did not materialize.

In retrospect, the furor that the medical examiner raised seems remarkable. He was a man of authority, but there ought to have been some way of diverting him. His strength was largely a strength of will. The only Parkland doctor to side openly with the dead Chief Executive's staff was Kemp Clark. "Jack, is there a JP in the building?" he asked Jack Price, the hospital administrator. "For God's sake, find someone."

Mayor Cabell and individual members of the staff began calling outside on their own initiative. JP after JP was reported to be out to lunch. Finally, a JP named Theron Ward was located and asked to come to Parkland immediately.

Theron Ward could not comply immediately, or anything like it. He was JP for Precinct Three, and that was in Garland, Texas—14 miles away. While everyone was waiting for him, the row around Earl Rose grew in intensity. Dr. Rose talked to District Attorney Henry Wade, who advised him to step aside and let the Secret Service handle everything. A less combative man would have welcomed the escape hatch, but Rose didn't want to escape. Instead, he became more vehement. Kemp Clark and Rose exchanged bitter words, and afterward, Clark took the worried Jack Price aside and advised him that he favored using force. "It may come to pinning him down and sitting on him," he warned, adding that he would be delighted to be among the sitters. He was one of many. If Rose had intended to preempt the center of the stage, he was meeting with spectacular success.

Outside Parkland, JP Theron Ward added his tan Buick coupe to the tangled junkyard. He might as well have arrived in a tumbrel. A justice of the peace could make no peace between the militants in major medicine; he could only mangle his own reputation. Ward was nearly saved from his fate—at the entrance, he introduced himself to a Secret Service man as "the JP" and was promptly ejected. The misunderstanding arose from his title. On the Eastern Seaboard, a JP is a minor functionary, a rung or two above a notary public. In Texas, he is an elected magistrate, with a courtroom and a daily docket. Judge Ward was accustomed to a more dignified reception, and when he presented himself at another entrance, he got it, from a nurse who led him to the nurse's station. She looked grateful to see him and said so, which was the last kind word he was to hear for some time.

Earl Rose recognized him. His eyes lit up; he crooked his finger "peremptorily"—the adverb is Ward's—and cried, "Judge Ward, you are under the gun! This case must be handled as no other case in history has been handled. If you allow this body to be moved, it will be moved illegally."

During the hasty introductions that followed, Ward attempted to explain his role to the glowering Federal officials who flanked the medical examiner. "I'm the JP who will be handling the case," he said to Dr. Burkley, attempting to take Burkley's arm. The arm was withdrawn. Rose's attitude had discredited Ward in advance, creating a violent revulsion toward local law. To the Washingtonians, moreover, the Judge didn't seem to be much of a jurist; Kellerman, like the agent who had turned him away, was unimpressed by the title of JP. Ward's physical presence was no help. A prepossessing newcomer—a Texan with the lordly bearing of a Connally—might have dominated the quarrel. The Judge was short, slight, sandy-haired and young. Finally, he appeared to be indecisive. "I'll handle everything as quickly as possible," he assured Kellerman and Burkley. They eyed him skeptically and felt vindicated when, in the very next breath, he marched back down the hill. He begged for "a few minutes to check a point of law."

Actually, his request was entirely reasonable. He was in strange country and plainly needed a guide. Elsewhere in the same city at that very moment, a Federal judge and the U. S. attorney for a hundred counties were vexed by the relatively simple question of the Presidential oath. During his debut, at least, Ward deserved a sympathetic hearing.

He didn't get it. The men with whom he was pleading were in a fever of resentment. Their tempers couldn't take another degree of heat. Shattered by the murder, antagonized toward all Texans because of it, they had been harried past endurance by the inimical medical examiner.

Kellerman displayed his commission book. "My friend—Your Honor—isn't there something in your law that makes a waiver possible?"

"I'm sorry," Ward said unhappily. "I know who you are, but I can't help you under the circumstances."

As Ward was talking, Kellerman had noticed that the church truck was being rolled into view. Jacqueline Kennedy was standing behind it, her hand resting lightly on the bronze top. Clint Hill, Godfrey McHugh, Sergeant Dugger, and Oneal were bunched around her; O'Donnell, O'Brien, Powers, Clifton, Gonzalez and Andy Berger flanked the church truck. Earl Rose stood blocking the wide door through which the coffin would pass. It had come to that.

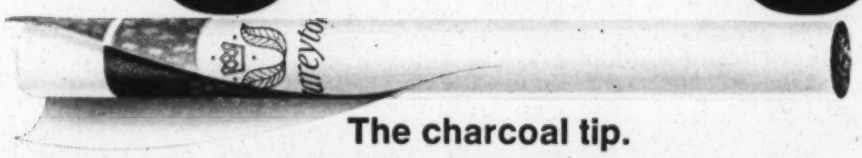
At this point, everything becomes confused. Judge Ward, who watched the beginning of the scene from the nurse's station, afterward believed that the encounter was over in a matter of moments. In fact, it was prolonged. According to the nurses who were watching Parkland's IBM clocks, Rose's last stand lasted ten minutes. Each man has his own story, and all clash, because all are saturated with emotion. Mrs. Kennedy, who had the clearest eye there, would be an invaluable witness, but she was deliberately sequestered.

Gonzalez saw Rose hold up one flat hand, like a traffic cop. "We can't release anything!" Rose said. "A violent death requires a post! It's our law!"

The Dallas medical examiner seemed to be in a tantrum. His arms were flapping, his shirt

continued on page 53

What gives Tareyton the taste worth fighting for?



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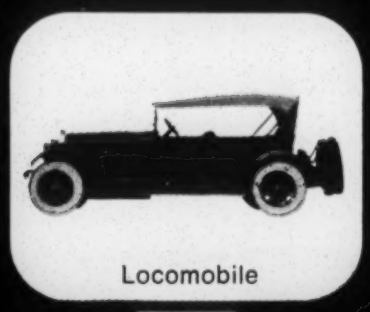
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1925

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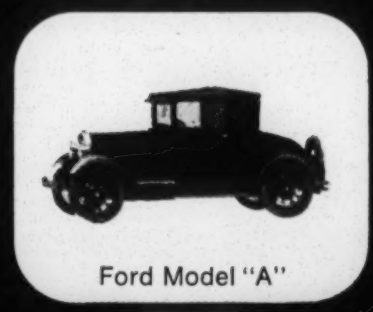
1927


Ford Model "A"
1928

Plymouth
1929

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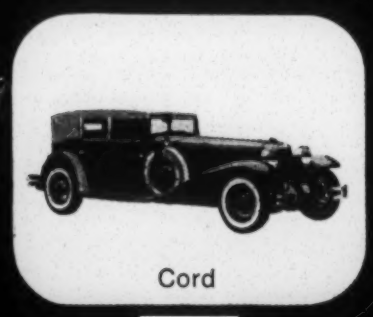
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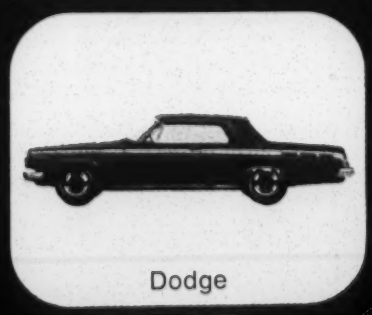
Dodge
1963

Chevrolet
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Marlin
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Mustang
1966

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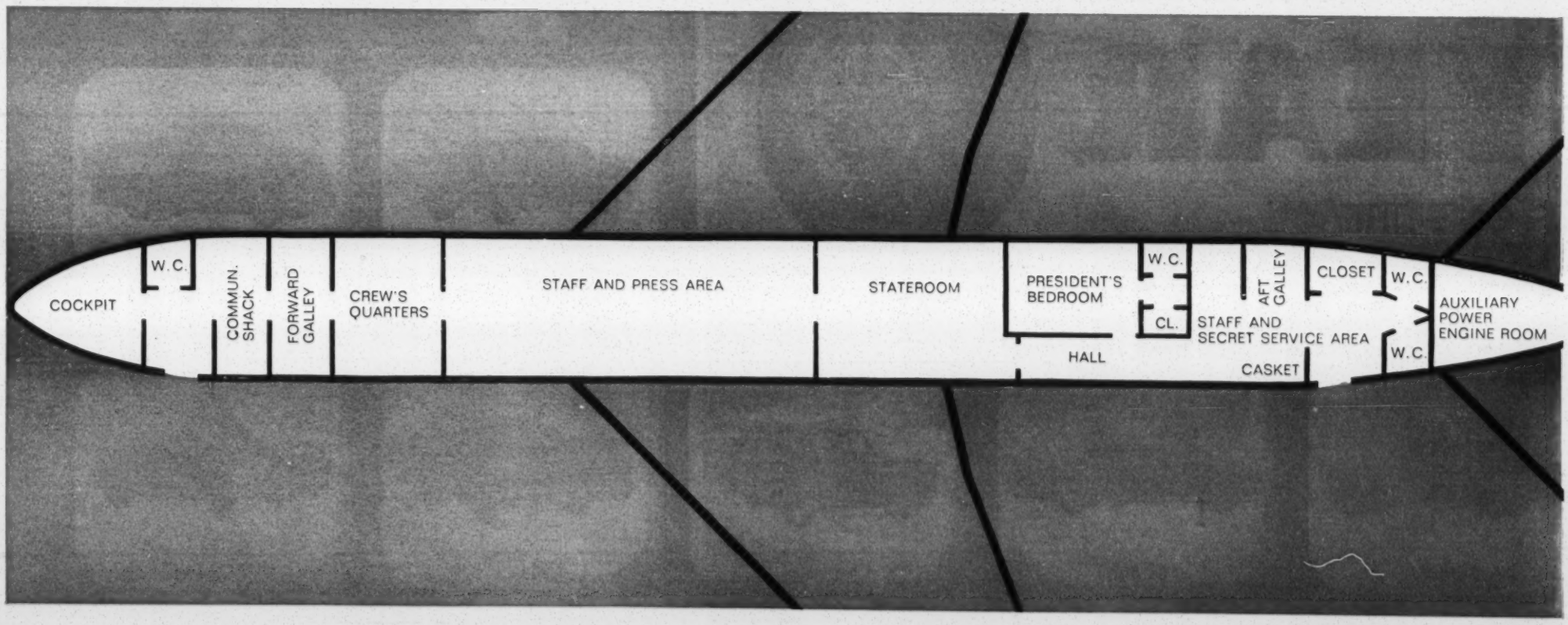

was disheveled. He was livid; the blood had left his freckled face, giving him the complexion of cold oatmeal. He was speaking rapidly; in a shrill, animated voice, which to Gonzalez sounded like a screech. Following the thread of his thought was hard, but he appeared to be lecturing them on the protection of the innocent, the accused's day in court, the credo of the physician and the sanctity of the Texas statutes the Federal employees were attempting to profane.

The men around the coffin decided to adopt Kemp Clark's suggestion; if necessary, they would hold him down. A signal was passed, O'Donnell to Kellerman to the other Secret Service agents; Rose was surrounded by muscle.

"You can't leave now!" he gabbled at Ken, bounding up and down to keep the coffin in view. "You can't move it!"

A crush of sweating men had developed around the wide door. The door had been forced open, and people were wedging their way in from the corridor beyond; Theron Ward estimated the crowd at 40. Until now, Rose had been a lonely figure, but this was still Dallas, he was still a public official, and a medical examiner's natural allies were Dallas policemen. One of them was among the arrivals from the outer hall. He took up a position at Rose's side.

It looked as though they might have to hold more than one man down, and if the patrolman intervened actively, he would be no pushover; he was fingering a pistol.

As O'Donnell and O'Brien were shouldering their way toward Rose, they were stopped by Burkley and McHugh, who proposed another solution. They explained that a justice of the peace was present, and that he had the power to overrule the medical examiner. Everyone waited while the judge was summoned; then he arrived and disappointed them. He could do nothing, he said. If a JP suspected a homicide, it was his duty to order an autopsy. There were plenty of grounds for suspicion here, and he couldn't overlook them. He guessed the procedure wouldn't take more than three hours. O'Donnell asked that an exception be made for President Kennedy.

Although the din was atrocious, both he and O'Brien heard the justice of the peace say, with what they regarded as a distinctly unsympathetic inflection, "It's just another homicide case as far as I'm concerned." The effect on O'Donnell was instantaneous. He uttered an oath. Thrusting his head forward until their noses nearly grazed, he said, "We're leaving."

The policeman beside Rose pointed to the medical examiner and the justice of the peace and told O'Brien, "These two guys say you can't go."

"One side," Larry said curtly. Jerking his head, Ken said, "Get the hell over. We're getting out of here. We don't give a damn what these laws say. We're not staying here three hours or three minutes." He called to Dave, who had taken Jackie into a nearby cubicle, "We're leaving *now*." To Kellerman, he snapped, "Wheel it out!"

At this juncture, in O'Donnell's words, "It became physical—us against them." Kellerman, who hadn't even heard Ken, had begun to pull the church truck on his own, butting flesh with his shoulders; the agents and Sergeant Dugger were pushing. It is impossible to say who was obstructing them, because in the melee, several men who seemed to be barring their progress had been daunted and were simply trying to get out of the way. Earl Rose wasn't among them. His patrolman had capitulated, and he had been shoved away from the threshold. Neither was Theron Ward. He was in the nurse's station, calling the District Attorney. To Ward, as to Earl Rose earlier, the District Attorney explained that he had no objection to the removal of the body. Holding the receiver with his right hand, the Judge waved toward the men at the door with his left hand, motioning them to go ahead. The value of the gesture is doubtful. It was like signaling to a bowl-game scrimmage from a cheap seat. The scrap was already resolved. The last wavering human obstacle faded away, and the coffin rolled into the corridor. The widow was walking directly behind it, her gloved hand once more on the gleaming cover.

As they approached the ambulance dock, an orderly raced up and handed an agent a blank certificate of death signed by Kemp Clark. It was swiftly pocketed. By now, the formation was moving forward in a rush, and in the disarray, Dr. Burkley and Agent Bill Greer were left behind. "It was in a panic to get out of there," O'Brien recalled afterward. "That little lady just couldn't stand there with her husband's body that way."

Father Cain was propelled to the dock edge, where he continued his incantations while the staff, coached by Oneal, eased the President into his ambulance-hearse's cargo compartment. There was a door on the right-hand side, leading to a jump seat beside the coffin. Sergeant Dugger, who was nearest, opened it for Jacqueline Kennedy. It was exactly 2:08 p.m.

The prospect of a pitched battle in the presence of the young widow had intimidated them all. They were determined to reach the airport and take off before imaginary reinforcements could arrive and overpower them.

Even as Agent Andy Berger ran his fingers over the unfamiliar controls, those fears seemed justified. Men were banging on the doors demanding admittance. They really weren't as forbidding as they seemed. One was Oneal's driver; the other, Oneal himself. "Let me in!" shrilled the driver, to whom Berger was a trespasser. His employer was less strident. The undertaker wasn't concerned; he was under the extraordinary impression that the funeral would be in Dallas, and he merely wanted to establish a rendezvous. "Do you know the way to my mortuary?" he called to Roy. "I'll meet you there."

"We're not going there," Roy replied. "We're going to Love Field. Follow us, and you can pick up your ambulance." "Hearse," Oneal instinctively corrected him. Then he turned to Hugh Sidey of *Time* and expressed concern over who would pay him.

Sidey stared at him, then glanced at the

continued

Lyndon Johnson sat in the President's bedroom while telephoning Attorney General Robert Kennedy in Virginia to discuss the question of when and where he should take the oath. The oath was administered in the stateroom, and the President and his aides gathered there to watch Walter Cronkite on television in an effort to learn more details about the assassination. Mrs. John F. Kennedy came into the stateroom to stand next to Johnson when he took the oath, then returned to the area where the casket had been placed. She stayed there during the return flight to Washington.

small semicircle of curiosity seekers in front of the tangled parking lot, at the wintry pile of the hospital overhead and out to the neoned boulevard, where the six-lane stream of blatting traffic halted and moved, halted and moved as the signal lights mechanically turned red, amber, green. *Sordid,* he thought. *What a sordid place for the glory of the Kennedy era to end.*

CHAPTER FOUR

At Love Field, as the stewards locked 26000's rear door, Jacqueline Kennedy wanted to be by herself for a few minutes. The last time she and Jack had been alone together, she remembered, they had been in the private cabin. He had loved the room; so had she. She decided that would be the right place for her to compose herself. Stepping softly, she moved down the dim corridor. Because she regarded the bedroom as hers, she did not knock; she simply grasped the latch and twisted it. Inside, reclining on the bed, was Lyndon Johnson, dictating to Marie Fehmer.

Mrs. Kennedy came to a dead stop. The new President heaved himself up and hastily lumbered past her. Marie swiftly gathered her notebooks and pencils and followed Johnson out.

The widow stared after them. For an instant, she paused indecisively on the bright-blue carpet with the golden Presidential eagle worked into it; then she returned to the corridor.

The relentless tension of the past two hours was beginning to lift a little for many of those on the plane. They had all missed the Trade Mart lunch and were now hungry. Johnson called for a bowl of soup. In Marie Fehmer's words, he "just inhaled the soup and crackers—they were gone in a flash." Putting the dish aside, he sighed, "It's been a year since I got up." Mrs. Kennedy returned to the tail cabin, to stay with the coffin.

Godfrey McHugh, meantime, had reached the nose of the aircraft. He had not seen either Johnson or Mrs. Johnson and was preoccupied with the need for immediate departure, now that President Kennedy's body was aboard. Entering the staff cabin, he was relieved to hear a familiar whine: Pilot Jim Swindal, on his own, had started the number-three engine, the sign that a hop was imminent. Calling ahead, McHugh shouted, "Take off! The President is aboard!"

Two Presidents were aboard, though McHugh had not thought of it that way. And Johnson's decision to take his oath in Dallas was about to cause an increase in the inevitable tension between the Johnson and Kennedy people.

During the past two hours, the Kennedy staff had lost a President and then battled to remove his coffin from the hospital. They had faced more buffeting than most people experience in a lifetime. Their tempers were tinder. If Johnson had directed them to take the plane parked alongside rather than Air Force One, they would have been spared the climax of their anguish.

Yet perspective suggests compassion. Johnson *was* the President, whether or not they could bring themselves to acknowledge him as such. And as Robert McNamara observed later, "You must remember that *he* was in a state of shock too." To their credit, the Kennedy staff members concealed their scars during those early hours, realizing that any public rift with the emerging administration would be a disservice to the country and, in consequence, to the man they mourned.

Swindal's crew was enormously proud of the speed with which they could become airborne and drilled constantly to shave seconds. Godfrey McHugh assumed that the first engine whine would be followed by a quick taxiing into position and a lifting sensation. It had always been that way. This was to be an exception, however. The man who was to signal a change in the regular procedure was Mac Kilduff, a Kennedy man who had ridden to the airport in the breakneck caravan behind the hearse.

Johnson had summoned the acting press secretary, whose calmness at Parkland had impressed him, and asked him to take the lead in setting things up for Sarah Hughes. "I've got to be sworn in here," Johnson told Kilduff. "I've talked to the Attorney General."

Mac reacted quickly. The flight to Washington, he realized, would have to be postponed. He headed for Swindal, and as he darted forward, he must have passed McHugh—one of several near misses for McHugh that can only be understood in the light of the turmoil in the staff area.

"Cut it off!" Mac told Swindal. He offered no explanation, but he was a member of the Presidential staff. The pilot obediently reached for his instruments. McHugh approached the nose of the aircraft seconds later and called, "Take off! The President is aboard!"

"No, we can't," Swindal called back.

"Let's *go*."

"Mr. Kilduff says we can't."

"It doesn't matter what anybody says. *Move,*" McHugh commanded. He was a general, Swindal was a colonel. McHugh returned aft, assuming that he would be obeyed.

Johnson, who had asked Kilduff whether there were any photographers present, entered the bedroom's powder room to change his shirt and comb his hair. For the second time, McHugh missed an encounter by seconds, though it is doubtful that his attitude would have changed much if they had met. To him, Lyndon Johnson was still Lyndon—the Vice-President—and Vice-Presidents, far from issuing decrees to the men surrounding Presidents, defer to them. Johnson had tacitly acknowledged this at Parkland when he turned a deaf ear to Youngblood and Agent Emory Roberts, refusing to leave what they regarded as a potential deathtrap until O'Donnell had given him permission to go. Since then, he had grasped the enormity of what had happened and had become President Johnson in his own eyes. But Godfrey McHugh saw things differently. He was an emotional man—he had already decided to renounce his Texas citizenship—and under the present circumstances, he would regard an instruction from Johnson as an impertinence.

The cabin in the tail grew more humid. Jacqueline Kennedy said, "It's so hot. Let's leave."

"Didn't you tell them?" Ken O'Donnell asked McHugh.

"Yes, but Mac Kilduff told them something else. I'll go up again."

In the communications shack, he ran into Kilduff. Mac was out of breath. He had been attending to assorted details, assembling a makeshift press pool, and rehearsing White House photographer Capt. Cecil Stoughton and his cameras for the ceremony. Even so, his unintelligibility with McHugh is remarkable. He could have hardly been more obscure had he tried. "What's going on?" McHugh demanded.

"We're waiting for newspaper people."

"The hell with newspaper people! We're going to go."

"We have to wait for Lady Bird's luggage; it's not here yet."

"What? She's on her own plane."

"No, she's here, and we're waiting for a Texas judge. A lady."

Back to the rear compartment. Ken O'Donnell asked McHugh, "Well?"

"*I* don't know what's happening. We're waiting for a woman judge, some reporters and Mrs. Johnson's baggage," McHugh reported. He knew it sounded idiotic, but that was what he had been told.

O'Donnell's face drew to a point, as though the muscles had been tightened by a single drawstring within. "*You leave right now.*"

"This time we're going," McHugh promised grimly. He could replace Swindal and fly the plane himself if he had to.

In the corridor outside the bedroom, he hesitated. Mac had specifically mentioned Lady Bird. It seemed preposterous to McHugh, but perhaps something had happened to the backup plane. Perhaps Johnson himself was also aboard.

By his own account, McHugh made five journeys through the length of the aircraft before he found out why they weren't moving.

Wandering into the staff cabin, Larry O'Brien heard someone ask Marie Fehmer if she had typed the Presidential oath of office. She nodded, and Larry comprehended everything. At about the same time, O'Donnell overheard a discussion in the stateroom, and someone called out, "We need a photographer, and we're waiting for a judge." Ken, though he disapproved, understood what was meant. McHugh alone remained in the dark.

The conflict had become irreconcilable. The Kennedy party believed that Air Force One's chief passenger was their fallen leader; since he could not give them orders, they looked to Mrs. Ken-

nedy, who shared their feeling that they must quit Dallas and who was bewildered by the delay. The attitude of the Johnson party, on the other hand, was summed up by Youngblood, who drew Lem Johns aside during the turmoil and emphatically told him, "When the boss says we go, *then* we go."

McHugh reached the front of the plane for the third time. He spotted Mac Kilduff. Bounding toward him—Kilduff had the impression that he was "galloping"—he said hotly, "We've got to take off immediately."

"Not until Johnson has taken the oath," said Kilduff.

"Johnson isn't here. He's on the backup plane."

"Then you go back and tell that six-foot Texan he isn't Lyndon Johnson," Kilduff said. "We're not going to Andrews until the President has been sworn."

McHugh flushed. Pointing toward the tail compartment he cried, "I have only one President, and he's lying back in that cabin."

It was a dramatic remark, and the plane was small enough so that his words became known to virtually every passenger before they landed at the capital. Ken O'Donnell heard them and was proud of the general. "This morning you were this tall," he said, holding his hand a few inches from the floor. Then he raised it as high as he could reach and said, "Now, you're up here." But Lyndon Johnson had ears too. That brief exchange in the communications shack altered the destinies of the two men; Kilduff, whom O'Donnell had dismissed, had laid claim to a job in the new administration, while General McHugh had forfeited his hope for another star. Indeed, even his days in uniform were numbered.

After the new President had changed his shirt and combed his hair, Joe Ayres laid out some blue Air Force One towels for Jacqueline Kennedy. She thanked him and entered the bedroom, and the Johnsons came in to offer their condolences. Johnson called her "Honey," put his arm around her and shook his head, but he left expressions of commiseration to his wife. Mrs. Johnson was a woman, and Mrs. Kennedy liked her.

Her face crumpling with tears, the new First Lady said, "Oh, Jackie, you know, we never even wanted to be Vice-President, and now, dear God, it's come to this!"

"Oh, what if I hadn't been there!" Jacqueline Kennedy said. "I was so glad I was there."

Johnson's instinct had been correct. Words were inept. Mrs. Johnson was ordinarily the essence of tact, yet here she slipped. "I don't know what to say," she sobbed, and then she said it: "What wounds me most of all is that this should happen in my beloved state of Texas."

She had scarcely finished before she realized that her tongue had tripped. "Immediately," as she said later, "I regretted it." This was no day for Texas chauvinism; Kennedy's death should be what wounded her most. Her eyes wavered and fell, and she saw the stained glove. She had always envied the way Jackie wore gloves. She herself usually felt awkward in them and couldn't wait to take them off. This one seemed a part of Jackie. And it was caked with her husband's blood.

"Can we get someone to help you put on fresh things?" Mrs. Johnson asked.

"Oh, no," Mrs. Kennedy replied. "Perhaps later I'll ask Mary Gallagher. But not right now."

The three of them sat on the bed, Mrs. Kennedy in the middle. After a pause, Johnson said uncertainly, "Well—about the swearing in."

"Lyndon," Mrs. Kennedy began, and took a quick breath. Of all those who had been with her husband, she was the first to accept the future. "Oh, excuse me. I'll never call you that again," she said. "I mean, Mr. President."

"Honey, I hope you'll call me that for the rest of your life," he said.

She was silent. Words were difficult for her too. The fact was that he was now the Chief Executive, and she resolved never again to address him by his first name.

"About the swearing in," he repeated, trying again.

"Oh, yes, I know, I know," she said quickly. She thought she knew. She, too, had seen the old engravings, and she remembered that during her televised hour of the White House for CBS she had pointed out that Rutherford B. Hayes, whose Inauguration Day fell on a Sunday, had taken the oath in the Red Room. The ceremony could be anywhere. It could be held right here, and evidently it was going to be. She said, "Yes. What's going to happen?"

"I've arranged for a judge—an old friend of mine, Judge Hughes—to come," he answered. "She'll be here in about an hour. So why don't you lie down and freshen up and everything? We'll leave you alone."

"All right," she said mindlessly, and they went out, closing the bedroom door.

Alone, she smoked a cigarette, staring vacantly into space. Then the full force struck her. *An hour,* she thought. *My God, do I have to wait an hour?*

Seeing Johnson, McHugh guessed correctly that he had erred in not opening the powder-room door earlier. Johnson was aboard. If an oath had to be administered on the plane, the General inquired, why couldn't the ceremony be held in the air? It was a reasonable question. He received no satisfactory answer. Instead, a maddening discussion about lens angles and close-ups had begun. The concern was arising in several minds that they were about to witness a spectacle which was bound to involve President Kennedy's widow. Independently of them, the widow was reaching the same conclusion; after the Johnsons' departure, she noticed that her Austin clothes had been carefully laid out on the other bed: a white dress, white jacket and black shoes. She was left with the feeling that they wanted her to look immaculate in the Inaugural picture.

Johnson had given careful attention to his own appearance. But this preoccupation may easily be misinterpreted. If the oath was to dramatize the stability of the American system of government, then the show had better be a good show. And if continuity was to be the theme, Jacqueline Kennedy's presence was desirable, however tormenting it might be for her.

O'Donnell and O'Brien were sitting opposite the new President and First Lady.

"The Constitution puts me in the White House, but you two are free to make your own choice," he said to Ken and Larry. "I want to urge you to stay and stand shoulder to shoulder with me. I need you more than you need me—and more than Kennedy needed you."

O'Brien was squirming. He had been chivied enough. *Hell, let's talk about this later,* he thought. But Johnson, as he recalled afterward, "was very definitely in a take-charge mood."

Mrs. Johnson, who was to have no memory of the contretemps, felt that "everybody was doing his utmost best in a difficult situation." The others were to recollect that they did their best to interrupt her husband and that he, wound up, continued to steamroller ahead. O'Brien broke in to describe the coroner's behavior and the need for immediate departure.

"No. I've talked to the Attorney General, and it's his opinion that I should be sworn in here," Johnson replied. With each passing moment, his version of his conversation with Hickory Hill was growing stronger. "I'm expecting a judge, a woman, a friend," he said, and he added, "She's a Kennedy appointee."

Then the realization hit O'Brien: *This man is President of the United States.* Larry's opposition ceased. He closed his eyes, praying that the Judge arrived before the police.

O'Donnell was harder to shake. He couldn't see why Kennedy people should be involved in a Johnson ceremony. In his opinion, the presence of the two groups was a matter of pure chance. The new President kept insisting that he would have held the plane for Mrs. Kennedy. There can be little doubt that he had intended to do that from the outset, but Ken was skeptical. He was convinced that if the Judge had reached the airport before the hearse, Johnson would have taken off without them. He kept remembering the struggle at Parkland, and his face tightened more; to Ted Clifton, he looked wolflike. Clifton heard O'Donnell saying over and over, "We've got to go," "We've got to get out of here," "We can't wait." Each time, Johnson's reply was the same: "No, I have word from the Attorney General."

Later, when Clifton learned that Attorney General Kennedy disavowed advising a Dallas oath (a disavowal strongly supported by Kennedy's opening words to Katzenbach: "Lyndon wants to be sworn in in Texas. . . ."), he concluded that the new President must have meant Attorney General Waggoner Carr of Texas. But both O'Brien and O'Donnell clearly heard President Johnson say "Bobby."

Bob Kennedy was the one man who could have persuaded O'Donnell to withdraw his objections. If Bob Kennedy wanted the new President sworn in Dallas—and the Kennedy people

continued

never dreamt that Johnson might have misunderstood the Attorney General (though he apparently had)—they would just have to sweat out the Judge's arrival. They only hoped she would hurry. To Clifton, as to O'Brien, the possibility that the slain President's body might be kidnapped seemed very real.

After Judge Sarah Hughes arrived, Johnson dispatched men to round up witnesses, then he himself took over that job.

Gesticulating broadly, he announced, "If anybody wants to join in the swearing-in ceremony, I would be happy and proud to have you."

There was no stampede. 26000's regular passengers hung back. Their aloofness can only be understood in the context of 2:40 p.m. Though the assassin had been caught, 40 minutes would pass before the networks even announced that "a suspect" had been arrested. In the absence of information, there was a general revulsion, not only toward Dallas, but toward the entire state of Texas. Lyndon Johnson, the most famous of Texans, was the innocent victim of that visceral reaction, and photographer Cecil Stoughton's subsequent negatives are stark evidence of what Larry O'Brien called "the tension of the plane." The spectators who were to be framed in Stoughton's lens were a lopsided group. Despite the width of the Hasselblad lens, it did not record the presence of a single male Kennedy aide. The only Kennedy man there—Dr. Burkley—stood behind someone else.

Godfrey McHugh was beside John Kennedy's coffin, standing rigidly at attention. Ken O'Donnell withdrew to the corridor. Larry O'Brien participated in setting up the ritual that Lyndon Johnson had said Bob Kennedy wanted; then he retreated behind Sarah Hughes. The feeling extended to members of the permanent Presidential staff. The crewmen had quietly retired. Swindal pressed his face against Roy Kellerman's broad back. As he explained afterward, "I just didn't want to be in the picture, I didn't belong to the Lyndon Johnson team. My President was in that box."

President Johnson did not deserve this. To a man of his hypersensitivity, such treatment was deeply wounding. More important, it was an affront to the Presidency.

The coexistence of the two administrations in an oppressive airplane, and the fact that most of these same individuals had battled one another three years earlier in Los Angeles, made tempest inevitable here. There were no villains aboard. The villain was downtown at police headquarters.

The focus of the print that Stoughton was to relay within an hour was the classic, pain-torn profile of Mrs. John F. Kennedy. It was her presence that the man about to be sworn had coveted most. He wanted her beside him, and he said so to everyone within earshot. In the end, she appeared, but the decision was to be hers. She understood the symbols of authority, the need for some semblance of national majesty after the disaster, and so she came.

Neither O'Donnell nor O'Brien contemplated a role in the ceremony for her. O'Donnell, in fact, was vehemently opposed to it. But Johnson told Sarah Hughes, "We'll wait for Mrs. Kennedy. I want her here." Stoughton suggested that she stand on one side of him and Mrs. Johnson on the other. Johnson nodded. He was becoming impatient, though. He glanced at the bedroom door, glanced again, and said decisively, "Just a minute. I'm going to get her." At that instant, the door opened, and the widowed First Lady stepped out. Johnson introduced her to Sarah Hughes and then drew her to his left side.

"Is this the way you want us?" he inquired of Stoughton. The little photographer, drenched with perspiration, called out instructions.

A voice from the semicircle of witnesses asked, "What about a Bible?" There was a pause in which everyone looked at everyone else, then Joe Ayres reassured them. President Kennedy always carried his personal Bible under the lid of the table between the two beds in his cabin.

The cover was of tooled leather, the edges were handsewn; on the front, there was a gold cross, and on the inside cover, the tiny sewn black-on-black initials, "JFK." On flights alone, the President had read it evenings before snapping off the night-light.

Sarah Hughes regarded it dubiously. Kennedy, she remembered, had quoted the Bible a lot. This must be his—after all, this was his plane—and that meant it was probably Catholic. She hesitated, then decided it would be all right.

President Johnson's audience was not rapt. Most of them didn't hear a word. Stoughton was almost drowning in his own sweat because his camera was defective. His first frame was a dud; nothing snapped. Recovering from the sickening silence, he guessed that a small pin inside had failed to make proper contact. He twisted the film-advance lever forward and back, jiggled the works and heard a click.

Mary Gallagher was watching Ken O'Donnell, who was pacing the corridor outside the bedroom like a caged tiger, his hands clapped over his ears as though to block the oath. Ken was thinking of Jackie, *She's being used, she's being used.* Larry O'Brien stared at Jack Valenti. There was a new zeal about him, and O'Brien, noticing the throbbing veins in his neck, thought, *Well, he's on his way now.* Muggsy O'Leary saw Valenti too. At the same time, it occurred to Muggsy that there had never been so many Texans in the stateroom. He thought, *It's all over for us.*

The pressure of dank bodies, the soaring temperature and the stuffiness of the cabin gave it the oppressive atmosphere of a sudatorium. Mrs. Johnson alone was unconscious of the humidity. She was thinking, *This is a moment which is altogether dreamlike, because the thing is so unreal; we're just like characters in a play; this is the beginning of something for us that's dreadful and heavy, and you don't know what it holds. We're stepping into a strange new world. It has the quality of a dream,* she thought again, *and yet it isn't a dream at all.*

The President embraced his wife and Jacqueline Kennedy. "Now, sit down here, honey" Johnson said to the widowed First Lady, steering her toward the seat Stoughton had just vacated. Swindal's engines were shrieking, and Johnson, sinking into the Presidential chair, said to Lem Johns, "Let 'er roll."

Johnson ordered a bowl of bouillon, and Mrs. Johnson had crackers. Mrs. Kennedy rose, saying politely, "Excuse me." She didn't want to offend the Johnsons, but a refrain kept running through her mind: *I'm not going to be in here, I'm going back there.* Scurrying down the corridor, she saw Ken, Larry, Dave and Godfrey standing around the coffin; she sat in one of the two seats opposite, and Ken joined her. Their eyes met, and she began to cry. It was the first time she had wept; the tears came in a flood, and for a long time, she couldn't speak.

Tripping down the ramp steps, Sarah Hughes was hailed by a self-assured man—she remembers him as "rather officious"—who pointed at the black binding in her hand and asked, "Do you want that?" She shook her head. "How about this?" he inquired, fingering a 3 by 5 card on which the text of the oath had been written.

Neither belonged to her, and so she surrendered them, assuming that he was some sort of security man. He wasn't.

His identity is a riddle. His venture required enterprise and luck. The spoils, however, were priceless; he left the airport with a pair of unique souvenirs. The file card is an archivist's curiosity, of interest only to collectors and museums. The book, however, is something more. It was private property, and at this writing, it remains untraced. The last item of Kennedy memorabilia to be left in Dallas, his most cherished personal possession, was his Bible.

CHAPTER FIVE

INDIVIDUAL recollections of the flight were to vary sharply, but nearly everyone in the cabin felt the smoldering animosity. Mac Kilduff called it "the sickest plane I've ever been on." Clint Hill recalled "a great deal of tension between the Kennedy people and the Johnson people." Some made no attempt at camouflage. Ken O'Donnell was particularly vocal. Twice, Johnson sent Bill Moyers back to ask O'Donnell and O'Brien to sit with him. They flatly refused, and Godfrey McHugh strode up to the press-pool seats to make certain the reporters knew about it. "I want the record to show," he said, pounding the table between them to stress each syllable, "that Ken O'Donnell, Larry O'Brien, Dave Powers and me spent this flight in the tail compartment with the President—President Kennedy."

Ted Clifton entered that rear compartment on an errand for Johnson. Ken flashed, "Why don't you get back and serve your new boss?"

Clifton asked McHugh, "What's eating him? I'm just doing my job."

Only Moyers, the most generous of Johnson's advisers, refused to be aroused. Realizing how deeply Ken had been hurt, he declined the bait. As a native of Dallas, Johnson's secretary, Marie Fehmer, felt a special sense of torment, and she made a stab at pacification. She offered to order soup for the Kennedy secretaries. Lips tightened, heads were shaken. They didn't want soup—didn't, really, want an armistice.

THERE WAS SOME TALK of barring the press from Andrews. Johnson shook his head vigorously; it would, he said, "look like we were panicking." At first, he contemplated a full-dress meeting of the White House staff upon arrival in Washington. Bundy advised against it, pointing out that the men there were too bereft. Moyers agreed, and Johnson reversed himself.

Rufus Youngblood still felt that the Johnsons should spend that night at the White House, but Johnson said, "That would be presumptuous on my part. I won't do it." The agent argued that he had "to think first of security."

"I realize that," the President said, "but you can protect The Elms, too, can't you?"

Youngblood conceded that they could guard the Johnson home.

Johnson beckoned to Moyers. He told him that he had no intention of entering the bedroom now. Perhaps the widow would like to use it to clean up. Moyers, the gentle nexus, went back to tell Jacqueline Kennedy, but she declined Moyers's invitation because she had no need of the bedroom. Remembering the strangeness of the fresh clothes that had been laid out here, she reflected that during her three years in the White House, she had learned much about Lyndon Johnson. Their rapport had been excellent, but a great deal depended upon what the press was told when they landed. She sent for Kilduff and said, "You make sure, Mac—you go and tell them that I was not up front, but that I came back here and sat with Jack." Kilduff bowed his head and mumbled, "I will."

The feeling that something must be done about Jacqueline's appearance had become universal. In the stateroom, the Johnsons and Rufe Youngblood were concerned about it, but so were the standees in the tail cabin. "Why not change?" McHugh asked her. She shook her head vigorously. Kilduff saw the rust-red blood caked under the bracelet on her left wrist and recoiled. Mary Gallagher's first thought on arriving from the front of the plane was to fetch a warm washcloth and soap. Speaking in hushed tones, she consulted McHugh, Clifton and Clint Hill about it until O'Donnell came over and said, "Don't do anything. Let her stay the way she is." Ken now grasped her purpose. Finally, she broke her silence and spelled it out to Dr. Burkley. Kneeling, the physician indicated her ghastly skirt with a trembling hand. "Another dress?" he suggested diffidently. "*No*," she whispered fiercely. "Let them see the horror."

"YOU KNOW WHAT I'm going to have, Jackie?" Ken O'Donnell asked her suddenly. "I'm going to have a hell of a stiff drink. I think you should too." She was dubious. She had promises to keep, and miles to go, and a drink might trigger uncontrollable weeping. She asked, "What will I have?"

"I'll make it for you. I'll make you a Scotch."

"I've never had Scotch in my life."

She hesitated, then nodded. Bracers were often prescribed for victims of shock.

Ken brought her a tall, dark tumbler. It tasted like foul medicine, like creosote. Nevertheless, she drank it, and drank another. Indeed, after the funeral, when she had moved to Georgetown, Scotch was the only whisky she would take. She never learned to like it. But it would always remind her of that trip back from Dallas, of the hours she wouldn't permit herself to forget.

The clutch of men standing around her emptied glass after glass. Kilduff later calculated that between Dallas and Washington, he consumed nearly two-thirds of a bottle of gin. Each of them was trying to survive the hideous ride, and if liquor would help, they wanted it.

Liquor didn't help. It didn't do anything. Nothing testifies more persuasively to the passengers' trauma than their astonishing immunity to alcohol. Kilduff, having downed more than enough to anesthetize him, was still cold sober. And when Ben Bradlee met Mrs. Kennedy and her escorts at Bethesda Naval Hospital, he was outraged; from their conduct, he assumed that no one had had sense enough to give them something to drink.

GOADED BY A mighty tailwind, the Presidential aircraft hurtled eastward at a velocity approaching the speed of sound. The plane was cleared to 29,000 feet. Colonel Swindal was determined to go as high as he could, however, higher than anyone had ever taken President Kennedy, and he rose another 12,000 feet before leveling off. At this tremendous altitude, over seven miles straight up, the sky overhead was naked and serene, but its tranquillity was deceptive. Andrews was relaying reports of tornadoes below, and behind him, a cold front was moving in from Arizona. Already, wild squalls were lashing the Panhandle. At Love Field, the temperature was plunging, and the western sky was livid. Kennedy weather had left Dallas with him.

In the southern sky, Swindal saw a waif of a moon hanging ghostlike near the meridian. At first, he thought of the darkness as a blessing. Returning this way, it would be best to land in gloom. But as the light failed, the crescendo of the day hit him harder and harder. Swindal had brought the President to Texas in exuberant spirits, at the height of his remarkable powers; and now, he was ferrying him back in a box. The passion of his own life had been spent: Behind him (as he thought of it then) were the President, the First Lady, the Vice-President and Mrs. Johnson. No aircraft commander had ever been charged with so grave a responsibility, yet he wondered whether he could make it to Andrews. He was near collapse. "It became," in his words, "a struggle to continue."

His co-pilot was, if anything, in worse shape. Before the flight began, Lt. Col. Lewis Hanson had been obsessed with the desire to leave Texas immediately. At any moment, he had expected the fuselage to be raked by machine-gun fire, and twice during the wait for Sarah Hughes, he had started the engines on his own.

The magenta twilight turned to olive gloaming and became dusk. The Colonels looked out upon the overarching sky. Saturn dogged the moon. Jupiter lay over the Carolinas; the Big Dipper, beyond Chicago. But the brightest light in the bruise-blue canopy was Capella. Always a star of the first magnitude, it seemed dazzling tonight, and as the Presidential plane rocketed toward West Virginia, it rose majestically a thousand miles to the northeast, over Boston.

Air Force One was 30 minutes away, maneuvering over the Shenandoah, as Bob Kennedy looked out across the plain of oil-stained concrete. Andrews had never been an attractive base. Most of the field was now cloaked by night, but Kennedy glimpsed a group of television cameramen by the MATS gate. He resolved to avoid them. Yet he was equally determined to be at Jackie's side the instant the plane stopped rolling. Casting about, he saw a deserted Air Force truck and vaulted over the tail gate. Sitting in almost total darkness among pieces of unfamiliar gear, he remembered the last time he had been here. It had been at noon on Saturday, October 20, 1962. The missile crisis had just begun; U-2 reconnaissance had confirmed the presence of Russian sites in Cuba, and the President, alerted by phone, had flown home from Chicago on the pretext that he was suffering from a cold. The Attorney General had stood on this same barren stretch, waiting for his brother.

OVER DULLES International Airport, Swindal knifed down through a thin overcast, and for the first time since leaving East Texas saw land.

Johnson was in the Presidential bedroom, shaving, combing his hair and changing his shirt again. Back in the tail compartment, Dave Powers told Roy, "Mrs. Kennedy wants you agents who were with the President to carry him off, and she wants Greer to drive."

Knowing how the chauffeur was suffering, Kellerman was struck by the thoughtfulness of the gesture. Mrs. Kennedy herself was speaking to Evelyn Lincoln, Mary Gallagher, Muggsy O'Leary and George Thomas, who had also been summoned. "I want you near the coffin," she said to each, and to Godfrey McHugh, she said, "I want his friends to carry him down." Ted Clifton came back to tell Ken O'Donnell, "The Army is prepared to take the coffin off."

O'Donnell replied shortly, "We'll take it

continued

off." Ken passed the word in the staff area that Mrs. Kennedy wished to have those who had been closest to her husband accompany him upon debarkation. But there was a second President aboard, and it does seem clear that everyone had priority over the new Chief Executive, including stewards. Fifteen people were wedged into the tiny corridor: Kilduff saw that the President was left standing there in the stateroom.

The acting press secretary was humiliated. Later in the evening, his embarrassment increased. At the Executive Office Building, he discovered Johnson continued to be annoyed and that he held Kilduff responsible. The new President was still brooding over the incident the following afternoon. After presiding over the Cabinet for the first time, he confided to one of its members that he had "real problems with the family." According to this secretary's notes, set down later that same day, "He said that when the plane came in, the family . . . paid no attention to him whatsoever, that they took the body off the plane, put it in the car, took Mrs. Kennedy along and departed, and only then did he leave the plane without any attention directed or any courtesy toward him, then the President of the United States. But he said he just turned the other cheek . . . he said, what can I do, I do not want to get into a fight with the family and the aura of Kennedy is important to all of us."

The eyes of the crowd were on the rear hatch, the President's. A ramp had been readied for the front entrance, and the Attorney General vaulted on it, unseen; he was pumping up the steps while it was still being rolled into place. Leaping in, he darted through the communications shack, the staff cabin and the stateroom. Liz Carpenter, recognizing his gaunt features, reached out to pat his shoulder. He didn't notice her or the Johnsons—next day, the President observed to one of his advisers that Kennedy hadn't spoken to him—because he was intent on reaching one person. "I want to see Jackie," Liz heard him mumble. In the tail compartment, he slid behind and then beside Mrs. Kennedy. "Hi, Jackie," he said quietly, putting an arm around her. "I'm here." Those around them started; his voice was exactly like his brother's.

BOB KENNEDY SLID OPEN the plastic partition separating the rear of the ambulance from the front and asked, "Roy, did you hear they'd apprehended a fellow in Dallas?"

Roy hadn't. For two hours, Lee Oswald had been news in the rest of the nation, but of 26000's passengers, only those who had been watching the stateroom television set knew of it.

"That's good," Kellerman said.

"It was one man."

"At the hospital, I'll come up and talk to you."

"You do that," said Bob, and closed the partition. Jacqueline Kennedy told him, "I don't want any undertakers. I want everything done by the Navy." He asked McHugh to see to that. Then a disjointed discussion ensued, touching upon the probable future of Kennedy aides, the delayed takeoff from Love Field, McHugh's role in that, and the explanation that the new President had offered at the time.

"He said he'd talked to you, Bobby," Jackie told her brother-in-law, "and that you'd said he had to be sworn in right there in Dallas."

The Attorney General was startled. There must be some misunderstanding, he said; he had made no such suggestion. (The author invited President Johnson to comment on this misapprehension. He replied that he had nothing to add to his statement to the Warren Commission.)

Leaning gently on the coffin, Mrs. Kennedy whispered, "Oh, Bobby—I just can't believe Jack has gone." Her luminous eyes fixed on a gray curtain over his shoulder, she described the motorcade, the murder in the sunlight, and the aftermath. For 20 minutes, he listened in silence. Afterward, he said, "It was so obvious that she wanted to tell me about it that whether or not I wanted to hear it wasn't a factor. . . . I didn't think about whether I wanted to hear it or not. So she went through all that." Without comment or expression, he heard the full horror of Dallas; heard the tale told in the husky dulcet voice that came to him softly across the casket.

IN THE NEXT ISSUE OF LOOK

THE DRAMATIC CONCLUSION OF THE DEATH OF A PRESIDENT

William Manchester reveals Johnson's initial plan to have the investigation of the assassination conducted only by Texans, the annoyance of Kennedy aides when the new President requested White House office space; and the reopening of old wounds at the first meeting of the Johnson Cabinet, in Part Four: *The Jarring Change in Washington.*

THE DEATH OF A PRESIDENT
BY
WILLIAM MANCHESTER
PART FOUR

President Johnson's initial plan to have the investigation of the assassination conducted only by Texans; the annoyance of Kennedy aides when the new President requested White House office space; and the reopening of old wounds at the first meeting of the Johnson Cabinet

JEAN KENNEDY SMITH had been looking out a window of the tower suite at Bethesda Naval Hospital on Friday, November 22, 1963, watching the darkness press hard against the cold panes, when a muted voice said, "She's here." She turned, and Jacqueline Kennedy was standing in the center of the drawing room.

"There," in the words of Ben Bradlee, the chief of *Newsweek*'s Washington Bureau and a Kennedy friend, "was this totally doomed child, with that God-awful skirt, not saying anything, looking burned alive." She went into Ben's arms with a moan, half-sob. He transferred her to his wife Toni. Toni held her and said, "Here's your Mother." Jackie turned to Mrs. Auchincloss with a wan smile and kissed her. Her mother said, "Oh, Jackie, if this had to happen, thank God he wasn't maimed."

The widow embraced Nancy Tuckerman, who had been appointed White House social secretary a few months before.

"Poor Tucky," she said quietly. "You came all the way down from New York to take this job, and now it's all over. It's so sad. You will stay with me for a little while, won't you?"

Behind her stood Robert Kennedy. To Bradlee, he was "the strongest thing you have ever seen. He was subdued, holding Jackie together; keeping everyone's morale up when his own couldn't have been worse. . . ."

Beckoning Jackie aside, Bob told her, "They think they've found the man who did it. He says he's a Communist."

She stared. *Oh, my God*, she thought, *but that's absurd*. Later, she would think about hatred and the highly charged atmosphere of Dallas; at the moment, however, she just felt sickened. It was like existentialism, entirely purposeless, and she thought, *It even robs his death of any meaning*. She returned to her mother. "He didn't even have the satisfaction of being killed for civil rights," she said. "It's—it had to be some silly little Communist."

Janet Auchincloss invited her daughter to stay with her in Georgetown. There was no response. Then Mrs. Auchincloss said casually, "You know that the children are at O Street."

Puzzled, Mrs. Kennedy asked, "Why are they there?"

"Why, because of your message from the plane."

"I sent no message. They should be in their own beds. Mummy, my God, those poor children; their lives shouldn't be disrupted, now of all times! Tell Miss Shaw to bring them back and put them to bed."

Mrs. Auchincloss called Maude Shaw, but the nurse already knew. The softest whisper traveled fast in that suite; Secret Service Agent Clint Hill had overheard the exchange and phoned Agent Tom Wells from the nurse's desk outside.

"Jackie, are you going to tell the children or do you want me to or do you want Miss Shaw?" Mrs. Auchincloss asked.

Mrs. Kennedy asked for an opinion.

"Well . . . John can wait," Mrs. Auchincloss said. "But Caroline should be told before she learns it from her friends."

"Oh, yes, Mummy. What will she think if she suddenly. . . ." She thought a moment and then said something that her mother thought wise. "I'd like to tell them, but ask Miss Shaw to use her discretion."

Janet Auchincloss didn't quite do that; she used her own discretion. Phoning the nurse, she began, "How are the children doing?"

They were fine, Miss Shaw replied. A trifle confused, perhaps, but at their age, they were resilient; they had been fed and were drowsy.

"Mrs. Kennedy wants you to tell Caroline."

Miss Shaw said in a low, desperate voice, "Please, no. Let this cup pass from me."

"You must. There's no one else."

"I don't have the heart—I can't destroy her little happy day."

"I know, but you have to."

"Please, *please*, can't someone else do it?"

"No, Mrs. Kennedy is too upset." Jacqueline's mother was determined to remove one last —perhaps crushing—burden from her daughter's shoulders today. There was no more to say; they hung up. At 8:30, Miss Shaw put John to bed.

Now, it was the girl's turn. Miss Shaw said slowly, "Your father has been shot. They took him to a hospital, but the doctors couldn't make

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him better." The little girl buried her face in the pillow, crying. Miss Shaw stood by the bed, her rough hands fighting one another, until the child slept. Then she tucked her in, crossed to John's crib and tucked him in, and sat alone in her room between them.

CHAPTER TWO

THE ARRIVAL of the Kennedy party in Bethesda's suite had set in motion a strange ritualistic dance. Groups formed, parted and reformed; partners were changed; speaking in metallic voices, the participants watched each other covertly and swiftly glided to the side of anyone who displayed signs of distress. Certain individuals detached themselves. Evelyn Lincoln sat on a windowsill, clutching the President's worn black-alligator briefcase, drifting in a private world of thought. Bob Kennedy was frequently on the telephone, talking to Officer J. D. Tippit's widow, to Nellie Connally, to Lee Radziwill in London, to Sargent Shriver. Otherwise, the drawing-room ballet was continuous. Dave Powers had set the stage by ordering drinks, beer and coffee. At one point, the Attorney General ordered a record player. That was too much for Ben Bradlee. He protested. Kennedy looked around vacantly. "She'd like it," he said, pointing at Toni Bradlee, and instructed a yeoman to bring the music. Ben waited anxiously, but the yeoman did not return. Bob apparently forgot about it.

In the *danse macabre*, certain themes recurred. At one time or another, nearly everyone present urged Mrs. Kennedy to change her clothes. To each suggestion, she shook her head tightly. Then it was felt that she ought to take a sedative. Here, too, she was inflexible, and Dr. John Walsh supported her. He said, "If she doesn't want it, OK. Leave her alone, let her talk herself out."

She was talking a great deal. To him, she recounted her recollection of what had happened in the Presidential Lincoln. She told Ben and Toni the story of the ring at Parkland and recalled the death of Patrick. Always, the two deaths were intertwined. For the country, the assassination of the President stood alone; for her, the two acts of the double tragedy were inseparable.

In Mrs. Auchincloss's words, "Jackie knew how the President's funeral should be, and there were no wrong notes in it."

At Bethesda, the widow seemed to be conscious of her new responsibilities. She was, as she recalled afterward, "sort of keyed up in a strange way." Seeing Pam Turnure in tears, she put her arms around her and said, "Poor Pam, what will become of you now?" She worried about all of them and worked at bracing their spirits, even those of Dave Powers. "Do you know what we should have in the Kennedy Library?" she asked, smiling faintly. They waited cautiously. "A pool," she said, "so Dave can give exhibitions of how he swam with the President."

Between calls, the Attorney General reaffirmed to Presidential aides Ken O'Donnell and Larry O'Brien that he had not urged Johnson to take the oath on the plane. They exchanged wondering looks, not appreciating the possibility that Johnson may have wished to emphasize the continuity of the Presidency.

The President's widow and the new head of the Kennedy family had to make decisions jointly. With a single exception, which arose later in the evening, they were of one mind. They certainly never disagreed about the issue of an undertaker. She repeated to him, "I don't want Jack to go to any awful funeral home," and he nodded vehemently. Sitting down, she faced Toni Bradlee across the round drawing-room table.

"Do you want to hear?"

Toni had never wanted anything less. Still, she assented. Like Bob Kennedy, she felt what she wanted was irrelevant. And so she heard.

"How can she *do* it?" whispered Ethel Kennedy.

"It's her French blood," Ben said. "She's purging herself."

Shortly before 7:30, Secretary of Defense Robert McNamara reached the hospital. Bob Kennedy had talked to him at his home minutes after the Secretary's return from the White House. Expecting to stop in for a few minutes, he left Mrs. McNamara in the front seat. Discovering that Mrs. Kennedy wanted him to stay, he rode down and reminded his wife that their son must be picked up at his Boy Scout meeting before 8:30. McNamara reached a decision: "She was in that suit with the bloody skirt and blood all over her stockings, and it was fantastic, but she just wanted someone to talk to. I felt I had to be calm for her and listen to her. We were in the kitchen, Jackie sitting on the stool and me on the floor. It went on for hours. I was concentrating entirely upon her because she needed me, and I felt, the hell with the others; let them take care of themselves." She talked about the murder.

Finally, she asked, "Where am I going to live?" The Executive Mansion was no longer a Kennedy residence, and she remembered that she didn't own the Georgetown house either. Late in 1960, the President-elect had said, "Why sell it?" It was ideal, and after two terms, they would need a permanent home. But eight years seemed such a long time. It was practically a decade, so he had put it on the market. She was indecisive. Sleeping in that bedroom alone would be unbearable, she thought, and then she reflected, *I must never forget Jack, but I mustn't be morbid.* So: She would move back to Georgetown, preferably to the same address.

"I'll buy it back for you," McNamara said.

Early editions of the following afternoon's newspapers created the impression that the widow had been a superexecutive, issuing rapid-fire commands in the manner of her husband. They erred. Few tourists knew that the White House Historical Association's dollar guidebook had been largely the work of the First Lady. At the bottom of page 39, she had reprinted an engraving of Lincoln's body on its catafalque, and when Bob gently pointed out to her that they would have to think about what they were going to do when they left here, she answered, "It's in the guidebook." That was the basis for the myth that she had made a series of snap judgments. According to one widely published version, she had been busy as a whipsaw during the flight from Dallas, starting parade plans the moment Air Force One left Love Field.

"From the hospital," the Associated Press reported, "she asked artist William Walton to find a certain book on a certain shelf in the White House library containing sketches and photographs of Abraham Lincoln lying in state." She didn't speak to Walton, and there was no such book. "From Bethesda Hospital during that first long night," wrote *Life*, "she began a series of astonishingly detailed plans and decisions, many drawn from history, the rest of them of her own devising . . . she remembered her husband's keen interest in the Special Forces, the guerrilla-trained troops he had sent to the jungles of Vietnam. She asked, 'Couldn't the honor guard include a member of the Special Forces?'"

She did not remember her husband's keen interest in the Special Forces; she did not ask such a question. Her sole contribution at the hospital was a reference to the White House guidebook, in which she remembered an engraving of Lincoln lying in state.

The Kennedy who was really in charge in the tower suite was the Attorney General. He made the call about the catafalque. He requested a representative from the Special Forces. He asked that the President's personal possessions be removed from the West Wing before their return, so that Jackie would not see them and be upset; and he was responsible for the strains of the Navy hymn, which would haunt the President's countrymen long after the eulogies had been forgotten.

On the plane, she had displayed unsuspected stamina, and that strength would reappear after they had returned to Pennsylvania Avenue, but on the night of November 22-23, the commanding figure at Bethesda was Robert Kennedy.

AT MIDNIGHT in the Executive Mansion, Angie Duke of the State Department blandly raised the possibility of a secular funeral, observing that "The President believed in the separation of church and state, and I believe he would want a service in the White House." Duke wasn't serious. Himself a Catholic, he knew this was unthinkable. His purpose was to provoke a serious discussion, and he succeeded brilliantly. He dwelt upon the advantages of a nondenominational ritual until he began to sound like a Unitarian, and the more he talked, the more Sargent Shriver bridled. Sarge cut him off. He said tautly, "The family will not permit a nonreligious funeral."

Duke had antagonized them, but he had made his point. "When he suggested a burial service in the White House," Shriver said afterward, "I realized that we would have to have a Mass for Jack, and I felt that it would be inappropriate to have a Mass in the White House." Because the line between the things of God and the things of Caesar had been sharply drawn in 1960, the Kennedy men were far more aware of it than the aides of any Protestant President would have been. John Kennedy must be buried as a Catholic. Nevertheless, as Chief Executive, he represented all Americans, and Shriver ordered two prie-dieux for the East Room, manned by pastors from all faiths, including the Greek Orthodox. To his surprise, Gen. Ted Clifton spoke up and said the clergymen were here—actually in the Mansion, ready to kneel. Chaplains representing every denomination had called and volunteered. Each had read Kennedy's Houston declaration; they understood his position perfectly. They had thought of him not as a Catholic President but as the President of the United States, and each of them wanted to pray to his God for his President. To Bill Walton, they seemed to be "nice, kind, gentle men, trying not to be in the way and not knowing quite what to do, because there wasn't anything for them to pray over yet." In fact, they had already done something remarkable just by coming; in death, John Kennedy had convened a kind of spontaneous ecumenical council.

THE ATTORNEY GENERAL became impatient. At 10 p.m., Gen. Godfrey McHugh assured him they would be ready to leave Bethesda at midnight, but at midnight, the embalming hadn't even begun. During the delay, several occupants of the tower suite roused from their stupor. Jean Smith told George Thomas to bring the President's favorite suits and ties from the White House; he left for the Mansion with two agents. Ken O'Donnell gave Bob Kennedy the President's wallet. Then Ken said determinedly—it had been preying on his mind since Parkland Hospital—"Jackie, I'm going to get that ring back for you."

Down in the morgue, he spoke to Dr. George Burkley, who worked the ring free and brushed past O'Donnell. On the seventeenth floor, Burkley explained to the Attorney General, "I want to give it to her myself, so I can be sure she has it." Wordlessly, Bob Kennedy stepped aside, and in the little bedroom, the Presidential physician handed her the ring and tried to voice his anguish.

The fact was that he had never been quite sure of his position with the Kennedys. Dr. Janet Travell had overshadowed him in the newspapers, and being Navy, he had sometimes appeared preoccupied with fussy service routine and interservice rivalry. The previous spring, it had been assumed that the infant Mrs. Kennedy was expecting would be delivered in Washington, and the issue was whether she should be confined at Bethesda or Walter Reed. Dr. Walsh had been in the Army, so Walter Reed was the obvious choice. But Burkley had been obtuse. He had set about reserving this very Bethesda suite for the expectant mother until she, hearing about it, wrote him a sharp letter. Though the public never saw it, Jacqueline Kennedy's temper could be formidable. Burkley, therefore, had maintained a respectful distance until today. But she was also capable of instinctive compassion, and when he handed her the ring and awkwardly attempted to express himself—he could think of nothing but clichés—she told him how much his attentiveness had meant to the President and her. Then she reached into her jacket pocket, took out one of the red blossoms the doctor had handed her in the ambulance-hearse in Dallas, and gave it to him.

The population of the hospital suite reached its peak during Friday's penultimate hour. At 10 p.m., Margie McNamara returned from the Boy Scout meeting. Ethel Kennedy had called Charlie and Martha Bartlett, and with a score of occupants crammed into it, the suite was approaching capacity. To Charlie, "Jackie was poised, unreal. She was talking about the murder—I gathered she had been talking about it for some time. She told me about red roses and the new red rug they were to have put in the President's study that day and the blood. She wasn't sobbing. Tears were just a breath away, but they never came. Bobby was watching, silent, ready. He was terrific, low-key as always."

McNamara talked about how splendid Kennedy's second four years would have been. Charlie Bartlett asked him whether he knew that he was supposed to be Secretary of State in that term—Charlie had heard it from the President. The Secretary of Defense nodded slowly. "I don't know what I could have done about policy, but I could have helped with the administration," he said. Jackie stopped speaking of Dallas. She was trying valiantly to act as the gracious hostess while declining fresh offers of sedatives and shaking off her mother's renewed suggestions that she change her clothes. Martha Bartlett thought, *It's almost as though she doesn't want the day to end.* "Suddenly," as Ben Bradlee said later, "we'd been there too long." He and Toni drifted toward the door. Mrs. Kennedy urged Evelyn Lincoln, Nancy Tuckerman, Mary Gallagher and Pam Turnure to drive home and get some sleep. "Somehow, we've got to get through the next few days," she told them. Mary's lips framed the question, "*How?*" "Be strong for two or three days," she was told. "Then we'll all collapse."

Of herself, Jacqueline Kennedy said to Martha Bartlett, "I'm not leaving here till Jack goes. But I won't cry till it's all over."

Bob Kennedy seemed reluctant to see the number of guests dwindle. "Why go?" he inquired as they moved in a group toward the big elevator. They murmured excuses; they fled. Ken O'Donnell, Larry O'Brien and Dave Powers, like Mrs. Kennedy, weren't leaving without the President. There was no discussion. It was understood.

The nurse showed Ethel and Jean to other rooms down the hall. Dr. Walsh gave Jean a sleeping pill, and he, Bob McNamara and Bob Kennedy remained with Jackie. A little more than an hour later, Dr. Walsh prepared a syringe; he detected signs of utter exhaustion in her. Considering the past two days, it was incredible that she should still be on her feet—Bob Kennedy and Bob McNamara were men of extraordinary stamina, but they hadn't been in Texas—and while the doctor had no way of knowing how much more would be expected of her, he suspected that it would be a lot. At a bare minimum, she needed one hour of complete relaxation. He loaded the needle with 100 milligrams of Vistaril, a formidable dose, and showed it to her.

She eyed it dubiously, then wavered. "Maybe you could just give me something so I could have a little nap," she said, holding out her arm. "But I want to be awake when we go home."

Walsh had complete confidence in the drug; he felt sure she would coast off within 30 seconds. Settling her down, he returned to the drawing room, sat in a chair, and instantly fell asleep.

Mrs. Kennedy waited and waited. Ten minutes passed, and nothing happened. She looked around for a cigarette. There weren't any here, so she strolled into the living room in search of a package. As she passed the doctor's chair, he awoke and looked up in disbelief. She smiled down at him and strode on with a firm step. Walsh stared at her.

DOWNSTAIRS IN THE hospital morgue, application of cosmetics by men from Gawler's funeral home required nearly three hours. It was quite unnecessary, but that was not the undertakers' fault. Neither General McHugh nor Dr. Burkley, who were in constant touch with the tower suite, could guarantee that the coffin would be closed. McHugh said it was better to take time and be on the safe side—"The family may change their minds at any time," he said. Burkley had spoken to Mrs. Kennedy. He knew her wishes that the coffin be closed. "But," he explained afterward, "I was determined that the body be fully dressed and that the face be just right in case people opened the coffin a thousand years hence."

Dave Powers picked the clothes—a blue-gray suit, black shoes, a blue tie with a slight pattern of light dots. The embroidered "JFK" on the white-silk shirt-sleeve was hidden by the coat. The Presidential valet recalled the Chief Executive's dislike of flamboyant monograms had also extended to handkerchiefs. Kennedy had carefully folded them so that the initials would not show, and Thomas did it for him now, slipping the handkerchief into the coat pocket.

Mrs. Kennedy finished her cigarette and turned on the television. She watched awhile, crying alone, and then crossed to the kitchen, where Bob Kennedy and Bob McNamara were talking quietly.

Her brother-in-law mentioned Officer Tippit's widow. "Do you want to speak to her?"

She didn't. Perhaps Mrs. Tippit's loss had been as great as hers, but she couldn't think so. She could only marvel at Bobby's thoughtfulness.

While Bob was telephoning in the drawing

continued

room, she broached the issue of the open coffin with McNamara. She remembered her father's funeral, and she said, "I want the coffin closed so badly. You can't have it open."

He disagreed. "It can't be done, Jackie. Everybody wants to see a Head of State."

"I don't care. It's the most awful, morbid thing; they have to remember Jack alive."

The Attorney General joined them. She said again that she couldn't stand the idea of what undertakers called "viewing the remains." Bob Kennedy, like Bob McNamara, said he didn't see how a President's funeral could disregard the public; private preferences had to be set aside. She had always listened to men. These two had been among that select handful whom her husband had trusted completely, and eventually, she lapsed into silence—as she put it, "I just sort of accepted that with such misery." She didn't really accept it. It was clear that she felt something precious to her was at stake.

AT THE WHITE HOUSE, Shriver said to Navy Capt. Tazewell Shepard, "The President of the United States is going to be here any minute, and there's nobody to meet him. Goddam it, Taz, we want some soldiers or sailors who will walk slowly and escort him to the door, reflecting the solemnity of the occasion."

"Get the marines," Dean Markham, a Kennedy family friend, suggested. Markham knew that the Corps' crack drill teams were garrisoned at Eighth and I Streets (S.E.). Shepard phoned the barracks' duty officer. "Break out the marines. The Commander in Chief has been assassinated, and I want a squad at the White House double-quick. You better move!" They moved. At the time of Shepard's call, they were in their bunks. Exactly 17 minutes later, they appeared on the south portico in immaculate dress blues, each man trailing a glossy rifle at order arms. The entire squad had dressed in the bus.

Unquestionably, the men of any other service would have responded eagerly, but the selection of the Leathernecks was particularly fitting for two reasons. John Kennedy had been the first President to inspect their barracks. The marines remembered that. They remembered something else. Every one of them knew where Lee Harvey Oswald had learned to shoot.

AFTER A BRIEF CEREMONY in the White House, Bob whispered to Jackie that he would settle the issue of the coffin before retiring. To do that, however, he had to return to the East Room and ask that the lid be raised for him.

The President's brother requested that the members of the Death Watch—an honor guard of servicemen who were to stand by the coffin during the lying in state—withdraw from the catafalque, and he approached it alone. It was the first time he had seen the body. He made up his mind then: Jackie was right.

Yet this couldn't be entirely a personal decision. McNamara's argument still carried force. John Kennedy had been a husband and a Kennedy, but he had also been the American Chief of State, and others who had been close to him—including O'Donnell and O'Brien—felt leaving the coffin sealed was improper.

Emerging into the hall, his cheeks damp, Bob Kennedy requested several friends who were waiting there to go in and give him their impressions. He explained, "Jackie wants it covered."

Of those who entered—McNamara, Arthur Schlesinger, Jr., Chuck Spalding, William Walton, Nancy Tuckerman, Frank Morrissey and Dr. Joseph English—only the doctor and McNamara considered the President presentable. English said he was opposed to an open coffin on principle, but was "surprised that his appearance was as good as it was, that he looked well." He merely wondered why the President's body was "tilted somewhat to the right, if that was because of the shell and what it had done." (Actually, tilting is standard undertaking practice. In "casketing," to quote a trade source, "natural expression formers" should always "turn the body a bit to the right and soften the appearance of lying flat on the back." This avoids "the impression that the body is in a box.")

The verdict of the others was vehement, and because they knew Robert Kennedy's tough fiber, they did not soften it.

"It is appalling," Schlesinger reported. "At first glance, it seemed all right, but I am nearsighted. When I came closer, it looked less and less like him. It is too waxen, too made-up." Spalding said bluntly that the face resembled "the rubber masks stores sell as novelties." He urged Bob to "close the casket."

His eyes full, the Attorney General turned to Bill Walton and whispered, "Please look. I want to know what you think." Walton looked as long as he could, with a growing sense of outrage. He felt, as he said afterward, that "they had done a terrible job with his face." He said to Bob, "You mustn't keep it open. It has no resemblance to the President. It's a wax dummy."

"You're right," Kennedy said incisively. "Close it."

Innumerable people were convinced that the casket was sealed because there was something to hide. At NBC, David Brinkley was "flooded by letters and wires demanding an explanation. I was repeatedly asked to provide one, and usually I refused, though I sometimes said it was at the request of the family, for reasons which seemed obvious. To me it *was* obvious. I feel strongly that the coffin should be closed at all funerals." One magazine offered a gratuitous elucidation. *Time* reported that "The casket . . . was never to be opened because the President had been deeply disfigured." This was wholly untrue. Neither wound had damaged the President's face. His features, intact when his wife examined them at Parkland, had been treated with cosmetics, and this was what gave offense. She said later: "It wasn't Jack. It was like something you would see at Madame Tussaud's."

CHAPTER THREE

CONCERN OVER the new President grew. Schlesinger wondered whether Lyndon Johnson should be his party's candidate in the coming election. He conferred with Chairman John Bailey, asking him whether it would be possible to deny the new President the nomination. John, according to Schlesinger's account, replied, "It might be technically feasible, but the result would be to lose the election for the Democrats." Schlesinger suggested that the party was likely to lose anyway, that either Nelson Rockefeller or Richard Nixon would win by carrying "the big industrial states." He then added perceptively, "But I suppose that Johnson is astute enough to recognize this, too, which means that he may be driven to an aggressive liberal program."

IN HER PRIVATE QUARTERS, Mrs. Kennedy had finally shed her stained clothing. By now, the President's blood was no longer damp; the blemishes had darkened as they dried. Even so, her maid was overcome by the extent of blood. Nothing she had seen or heard on the television reports had prepared her for this.

Dr. Walsh came in after the bath. In the tower suite, he had administered one shot to his star patient. It had been worthless. Now, he grimly armed another needle, this time with the strongest weapon in his arsenal. She lay down on the bed, and he injected a full half gram of sodium amytal. He didn't tell her what it was, but it was formidable enough to knock out a prizefighter, and as he and the maid slipped out into the West Sitting Room, they were convinced that she was insensible. She wasn't yet. She could not cry herself to sleep. Eventually, however, the sedative reached her. For the first time since rising in Fort Worth's Hotel Texas, while her husband's voice had drifted up from the parking lot eight stories below, she was out.

She was quiet for perhaps an hour. Shortly after six o'clock, she asked her maid for orange juice, and then the drug dragged her down for another two hours. That was the limit of its effect, however; too much was on her mind, and she swung up into a sitting position on the side of the bed, determined to resolve two issues before the 10 a.m. Mass. Unaware that Robert Kennedy had agreed with her about the coffin, she asked for him. Meantime, she braced herself to talk to her children.

At 7:30, the door of the President's bedroom had swung open, and Caroline entered. In a dreamlike tone, the President's daughter said to Mrs. Auchincloss, "He's dead, isn't he?" There could be no adequate answer, merely a tight nod. But the little girl did not seem to expect details.

To young John Kennedy, Mrs. Kennedy said that a bad man had shot his daddy, then added that he hadn't been bad really; he had just been sick. To young John, the full meaning of the assassination was incomprehensible.

A few minutes later, Robert Kennedy assured his sister-in-law that the public would not see the President.

THE NEW PRESIDENT'S first problem, upon leaving The Elms, was selecting a destination. As Chief Executive, he was entitled to occupy the oval office. But his presence in the White House would inevitably become the source of misinterpretation and resentment. There was no clear option, and Johnson was uncharacteristically indecisive. His first choice was the West Wing.

As head of the White House detail, Jerry Behn commanded his convoy of agents. Behn's habitual greeting was, "What's new?" The gambit was depressingly trite, an office joke. This morning, Evelyn Lincoln saw Behn before he saw her, and it is a sign of the widespread antagonism toward the Secret Service that Evelyn looked him hard in the eye and said bitterly, "Jerry, there's something new."

He turned away without answering.

Evelyn knew the Attorney General wanted the West Wing cleared of President Kennedy's belongings, but she felt no sense of urgency, and she even asked Presidential photographer Capt. Cecil Stoughton to photograph the newly decorated rooms while JFK bric-a-brac was still there. Then LBJ unexpectedly appeared and asked her to step into the oval office.

President Johnson sat on one of the two facing divans. Evelyn started toward the rocking chair, veered away, and sank on the opposite couch. According to her recollection, he said, "I need you more than you need me. But because of overseas"—presumably a reference to the necessity for shoring up confidence abroad—"I also need a transition. I have an appointment at 9:30. Can I have my girls in your office by 9:30?"

He was giving her less than an hour. She said faintly, "Yes, Mr. President."

Johnson then said, "Do you think I could get Bill Moyers in Ken O'Donnell's office?"

She didn't know how to reply. She lacked any influence with Kennedy's chief of staff. After an awkward pause, she faltered, "I don't know, Mr. President."

Withdrawing in confusion, she met the Attorney General in her own office. She sobbed, "Do you know he asked me to be out by 9:30?"

The younger Kennedy was appalled. He had just come in from the South Lawn to see how the moving was progressing, but he hadn't counted on this. He said, "Oh, no!"

In the hall, Robert Kennedy encountered the new President. This was the first meeting of the two men since the assassination.

The President said, "I want to talk to you."

"Fine," said Robert Kennedy. But he didn't want to talk in the Presidential office. They entered a little anteroom opposite the President's washroom, and Johnson told him that he needed him more than his brother had. By now, a half a dozen members of the administration had quoted this same line to Kennedy. And he did not want to discuss his continuance in the Cabinet now anyhow. He told Johnson that the immediate issue was more prosaic. It was furniture. Crating his brother's things was going to take time, he explained, and he asked, "Can you wait?"

"Well, of course," the new President answered, and in the next breath, he began qualifying his reply. In effect, he said that while he himself did not want to occupy the White House at once, his advisers were insisting upon it.

The conversation seems to have triggered Johnson's prompt decision to switch back to the Executive Office Building. The story that Johnson had walked up to the threshold of the new red rug, declared solemnly, "No, this isn't right," and spun on his heel rapidly became gospel among lesser Johnsonian aides. Yet he was not exaggerating the pressure upon him to take over—pressure which, after his exchange with Kennedy, he resisted fiercely. His Vice-Presidential military aide argued forcefully that he ought to go back to the White House. The President ignored him.

"It would give the people confidence," the colonel explained.

"People will get confidence if we do our job properly," Johnson said tartly. "Stop this. Our first concern is Mrs. Kennedy and the family."

On the other side of the street, Robert Kennedy told Evelyn that she needn't hurry. Nevertheless, she sped along. Two Kennedy rocking chairs were rapidly roped together and rolled across West Executive Avenue on a little dolly.

Evacuation by 9:30 had been an impossibility, but Evelyn was determined to have everything in cartons by 11 a.m., and although she left briefly for the religious service in the Mansion, she made it. As one Chief Executive's furnishings departed, another's arrived. Behind Evelyn's desk, a huge gold-framed portrait of Lyndon Johnson, brought over from his Vice-Presidential office, was swiftly hung.

WITH THE Attorney General out of action, Nick Katzenbach was already, in effect, acting Attorney General, and he was proposing the investigative commission that Chief Justice Earl Warren later headed. To his horror, Katzenbach learned that the new President had tentatively decided upon a Texas commission, with all non-Texans, including Federal officials, excluded. Katzenbach went straight to Abe Fortas, the Washington attorney closest to Lyndon Johnson. He bluntly labeled Johnson's idea a ghastly mistake. From Fortas, he heard for the first time that the President intended to release the forthcoming FBI report on the assassination the moment it was ready. That, too, would be improper, Nick argued, and he insisted that the report be channeled through the Attorney General and himself.

AMERICA'S FIRST Catholic First Lady had temporarily lost her Spartan control in the presence of a priest. Father John Cavanaugh, an old friend, had come to her room to hear her confession. He was about to celebrate the Mass downstairs. Under these circumstances, a confession seemed inappropriate, however, and Jacqueline Kennedy told him so.

Father Cavanaugh appeared at a loss, and presently, the widow realized that there was nothing the priest could say. Feeling sorry for the man, she regained her poise. They stumbled through the rite—it was really not an orderly doctrinal confession—and then she walked into the hall in her weeds, took Caroline in one hand and John in the other, and headed downstairs, staring straight ahead.

THE EAST ROOM was hushed, and the oval office, naked, but the Vice-Presidential suite had never been busier. There was a physical, visible frontier between the two administrations that morning. On one side of the twin row of cars stood the elegant old Executive Mansion, haunted by the ghost of the youngest man ever elected to the Presidency; on the other side, preoccupied men darted in and out of the Executive Office Building. Certain individuals crossed the frontier, Johnson himself among them. All were aware of its existence, however, and the leadership of the Executive Department was split into two camps. At one end of the spectrum were the loyalists—Schlesinger, Ted Sorensen, O'Donnell and their leader, Robert Kennedy, who, despite the gloomy sky, had donned dark glasses after the Mass to conceal his swollen eyes. At the other end stood the realists—men like Mac Bundy, who repeatedly reminded other members of the Kennedy team that "the show must go on" and declared that he, for his part, intended to remain as long as he was wanted and needed by the President of the United States.

Sorensen saw the issue rather differently. At 7:30 p.m., he went over to the EOB at the invitation of the President, who solicited his advice about personnel. Sorensen said quietly, "You have two kinds of problems: those who will not make themselves available to you and those who will be too available."

This last point was subtle, but some felt it keenly. As the day grew older, individual resentments deepened. To some, the conduct of those who could think of the President as an impersonal institution was considered callous. Dodging across rain-swept West Executive, Kenneth Galbraith saw a Cabinet member, seized his arm, and said urgently, "We've got to take care of some of these liberals now, so they don't go shooting off their mouths"—a curious choice of words from the author of *The Liberal Hour*. There were those in the administration who felt that such demeanor was correct, but it was undoubtedly controversial.

Some of those whose alacrity was regarded with disapproval were not conscious of the reproachful glances around them. One confided to his diary that he heard "no bitter word, and only encouragement from both sides, in my double loyalty." He was misinformed. The words were

continued

spoken. He just didn't hear them.

Of this same man, a colleague was writing in *his* diary, "I have never seen his instinct for power more naked and ruthless."

"To be charitable," Schlesinger observed the following spring, "the Government would have been paralyzed if everyone behaved like me and Ken O'Donnell." At the time, he wrote that "for some people, personal emotion is very difficult. . . . Bundy has everything under iron control. I do not think that this means that they feel things less than the rest of us." It didn't. Bundy, too, had cried in the night.

Schlesinger, Galbraith and Bundy had all been recruited from the Harvard faculty. O'Donnell was not seen in the Vice-Presidential suite all day, yet O'Brien went over to discuss a congressional maneuver that would boost the Russia wheat sale, and Sargent Shriver, President Kennedy's brother-in-law, was a realist by any standard. Anxious to see an orderly change of government, Shriver walked across West Executive Avenue and volunteered his services. When he attempted to bring the two groups together and ran into what he called "a lot of flak," he was baffled. The loyalists, swept up in the mightiest current of emotion in their lives, were determined to show proper respect toward the murdered President. The realists played a valuable and difficult role—and history may award them the higher grade, for their service to the national interest was great.

The country, hypnotized by the catafalque, was unaware of any conflict within the Government. It was virtually impossible to think beyond yesterday's death and the coming funeral. Hugh Sidey argued (in vain) that *Time* should hold its cover portrait of the new Chief Executive for another week's issue because "Nobody is interested in Johnson." Not many were. Nevertheless, depicting his mood during his first full day in office is a matter of intrinsic interest. The man's chameleon nature has never been more evident. There have never been so many Lyndon Johnsons. His aide George Reedy saw Lyndon the clairvoyant: "Everything was chaotic," Reedy said afterward. "Only the President knew what he was doing."

Kenneth Galbraith was greeted by the left-of-center champion: "I want to come down very hard on civil rights," Johnson told him, "not because Kennedy was for it but because *I* am for it. Keep in mind that I want a liberal policy because I'm a Roosevelt Democrat."

The President was exploiting his great gift for exposing this or that facet of his character so that each visitor would leave with a feeling of warmth and reassurance. Since the visitors entered one at a time, his success was almost universal. The out-and-out loyalists, while remaining distrustful of colleagues who had raced to Room 274 in the Executive Office Building, saw a Lyndon so humble, so shattered by his own anguish, that even Theodore Sorensen and Arthur Schlesinger were impressed. To British Ambassador Sir David Ormsby-Gore, this Lyndon said brokenly, "If my family took a vote on whether or not I'd stay, there'd be three votes for quitting right away —and maybe four."

That Lyndon vanished, and another appeared, shrewdly advising Larry O'Brien on a technical point of parliamentary procedure. There is no way to reconcile the various members of the flexible Presidential cast. The fact is that each played his part superbly and richly deserved applause. Only the naïve would be offended by the variety; John Kennedy would have been engrossed by it. Which was the real Johnson is a question best left to his biographers.

Overnight, he had acquired fresh momentum, and those who were skeptical of his wisdom couldn't doubt his stamina. Repeated calls were placed to John and Nellie Connally at Parkland; he fenced sharply with the soft-spoken but immovable Nick Katzenbach over whether the assassination should be investigated by a Federal or state board of inquiry; he applied the Johnsonian cattle prod to J. Edgar Hoover, who by now was dispatching fleets of agents to Love Field; he proclaimed Monday a day of official mourning; he received Supreme Court Justice Arthur Goldberg; and he took time to pose for still photographs with Dean Rusk, McGeorge Bundy, Robert McNamara and Dwight Eisenhower, which were released to the networks at 5:13 p.m. ("First Pictures of LBJ at Work as President"). In lesser jobs, there is a direct correlation between effort and results, but as Kennedy could have told Johnson, and as Johnson painfully learned that first day, the ratio is meaningless in the Presidency. Historic achievements may be credited to a Chief Executive while he is fast asleep; awake, he may sweat like a slave and accomplish nothing. Johnson's Saturday was a curve that alternately plunged and zoomed and ended nowhere. After his encounter with Robert Kennedy, he had enjoyed a pleasant interim: the congressional leadership had trooped into the EOB to promise its support.

It was after this heartening pledge that the President, joined by his wife, led the leadership past the waiting Cabinet, into the East Room. Leaving the catafalque, he sighted Dwight Eisenhower and invited him to cross the street for a 20-minute talk. Actually, the appointment turned out to be the longest of Johnson's day. It lasted two hours, and to the thirty-fourth President, the thirty-sixth seemed unsure of himself:

"I'd known him a long time. He was, as he always is, nervous—walking around and telephoning everyone. . . . I would mention someone in the conversation and he would snatch up the receiver and call the person. He asked my advice about many matters, including the tax cut. I told him that he had to show what he was going to do with his own budget. We also discussed foreign affairs. As far as I could see at that time, Lyndon Johnson's only intention was to find out what was going on and carry policy through. He suggested nothing new or different. He wanted to talk about Laos, Cuba and so forth. He did seem to be less informed about foreign policy than

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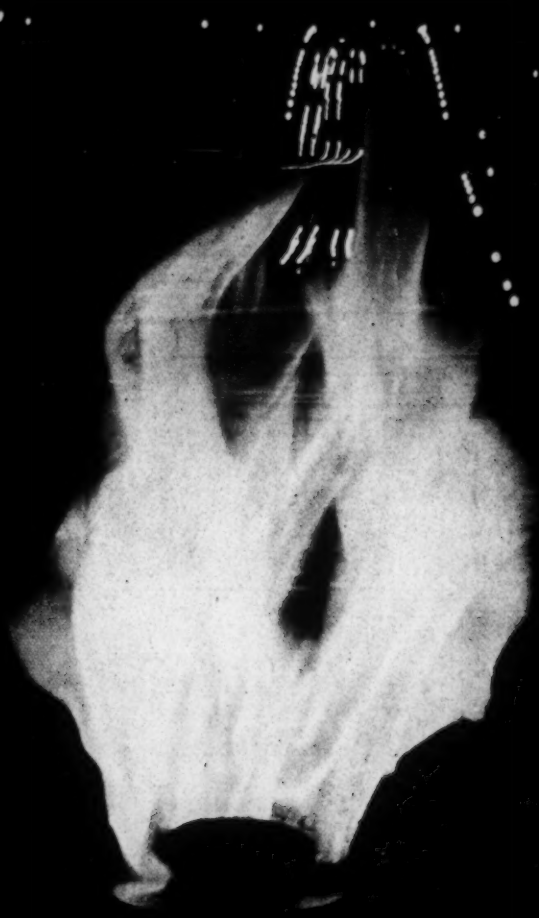
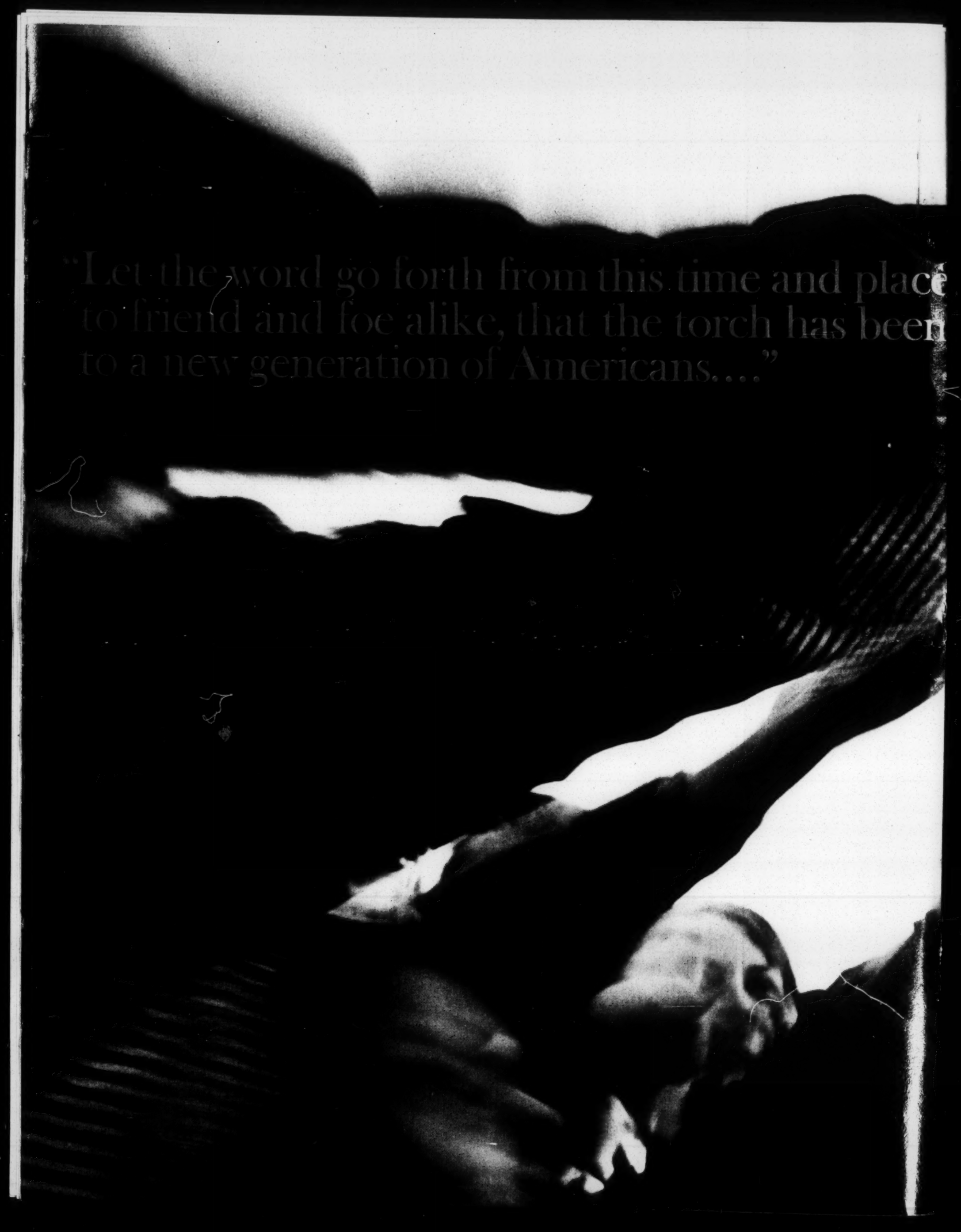
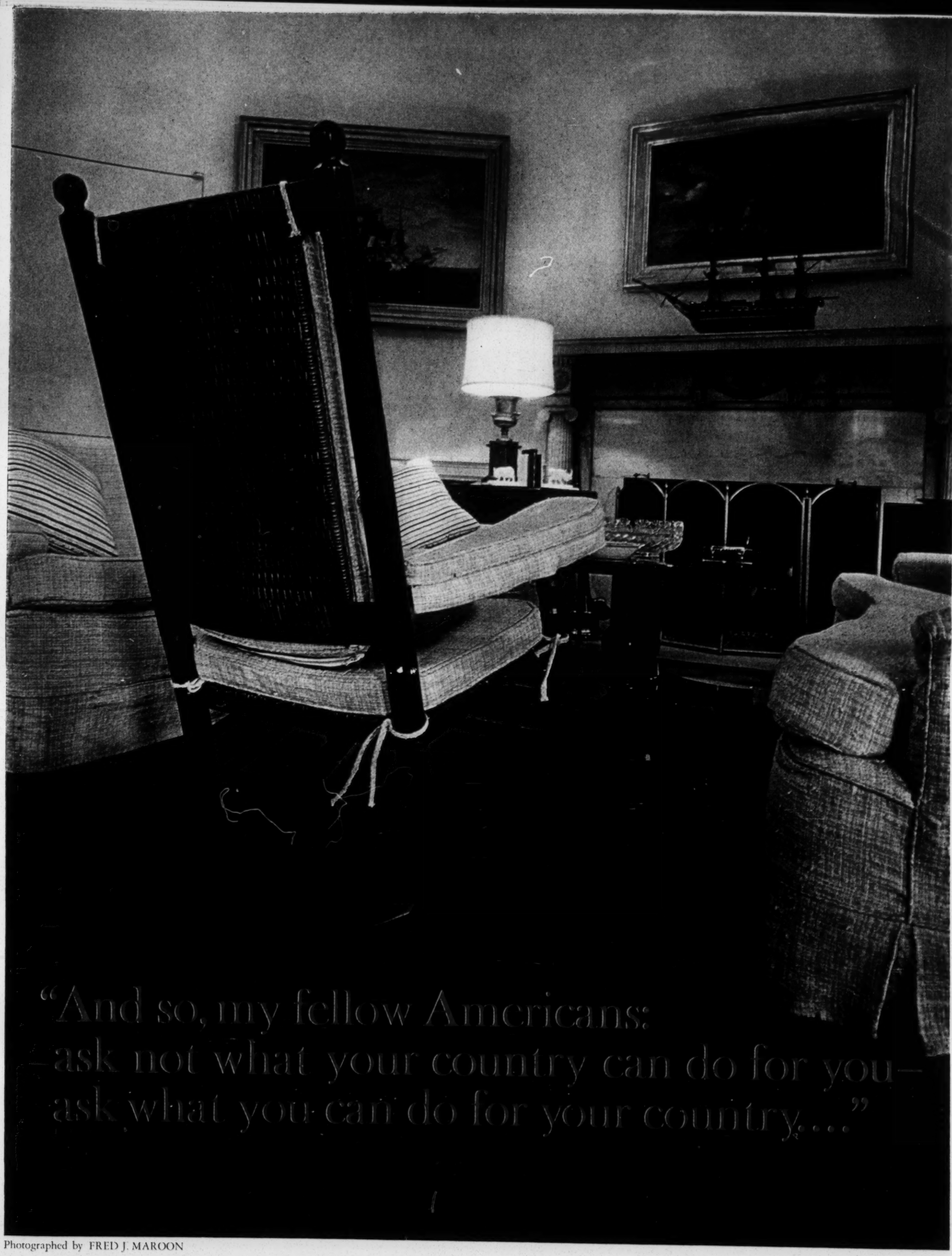


"The energy, the faith,
the devotion which
we bring to this endeavor
will light our country
and all who serve it –
and the glow
from that fire can truly
light the world."

Photographed
by
STANLEY TRETICK


"Let the word go forth from this time and place
to friend and foe alike, that the torch has been
to a new generation of Americans. . . ."

passed



Photographed by FRED J. MAROON

about domestic policy."

During the long session, Mac Bundy tiptoed in and placed Schlesinger's letter of resignation on the desk. Johnson glowered. "Tell him to take it back," he said. "I don't want any such letters. And tell everyone I mean that." Eisenhower suggested to Johnson that he was making a mistake. According to his recollection, his words were, "Take them all. You must be your own self. You must establish yourself. You should take them now and then decide in the next three or four days which ones you are going to accept."

Johnson regarded him moodily. After the funeral, he was to become adept at shaping his staff, easing out even those advisers who would have preferred to stay. On November 23, however, he treated any suggestion of change with a negative, highly emotional response, and he seemed to regard retirement from the Government as tantamount to desertion.

At that afternoon's Cabinet meeting, Dean Rusk reminded him that it was traditional for all Cabinet members to submit resignations when a new President took office. Johnson shook his head doggedly; he said that he wanted every man there as a Johnsonian adviser. Rusk pointed out that precedent was involved; some future Chief Executive might not want all his ministers to stay. Still Johnson balked.

The Cabinet resignations, which went in anyhow, weren't even acknowledged. And when he met Sorensen that evening and Sorensen mentioned his own note, the President replied brusquely, "I know, I got your letter," and quickly changed the subject.

The new President and the new First Lady attended a memorial service for Kennedy. Twenty-four hours had now passed since the assassination. It was past noon once more, and Schlesinger had arranged what came to be known as "the Harvard lunch" in a private upstairs room of the Occidental Restaurant, on the opposite side of the Treasury Building from the White House. Afterward, Galbraith wrote in his journal that "Arthur was in a rather poor mood . . : he was reacting far too quickly to the chemistry of the moment and was dwelling on the possibility of a ticket in 1964 headed by Bob Kennedy and Hubert Humphrey. This of course is fantasy, unless of course Johnson stumbles unbelievably or even then." (Schlesinger's own estimate of his guest is instructive: "Like Mac, Ken is a realist. He would infinitely have preferred Kennedy, but he is ready to face facts and make the best of them. Like Kenny and Bobby, I am a sentimentalist. My heart is not in it.")

The aftermath of the luncheon was equally typical. Schlesinger attended a staff meeting, where Bundy implored everyone to stick to his post, and Galbraith collided with the new President on West Executive. "I've been looking for you," Johnson said (Galbraith doubted that this was true). "I want to see you—come on up." Johnson asked him to write a speech for delivery before a joint session of Congress. Galbraith, having finished a eulogy of Kennedy for the Washington *Post* that morning, craved another excuse to finger a typewriter keyboard, and was immensely flattered. He needn't have been. The President was making the same request of a half-dozen men. If you were literate, informed and empathic, you were being drafted.

CHAPTER FOUR

JOHNSON yearned to speak to the Congress, and understandably so. The people had been badly shaken. The sooner they heard the voice of their new leader in an address of substance, the better. He was still holding back, feeling his way. At 2:30 p.m., however, he would have a matchless opportunity to take a real sounding. That was the time set for the Cabinet meeting. Thick yellow pads and sharpened pencils had been laid out at each place along the perimeter of the long table in the Cabinet Room, the Vice-President's chair had been moved around to the President's spot, and one of the men present would be the new head of the family, Attorney General Robert F. Kennedy.

"Gentlemen, the President of the United States!" Rusk said at the outset, and they all rose.

The meeting was not a triumph. The ministers were in a state of abnormal depression. Johnson had a few things going for him; Bundy had prepared a discreet memorandum on what he "might want to say," and everyone present was anxious to pull the country together. But the catastrophe had been too recent. They couldn't forget that the corpse of the man who had appointed them all rested in a wooden coffin on the other side of this same building.

The new President was further hampered by his own bearing. A total stranger might have imposed his personality upon them. But Lyndon, as they still thought of him, was a familiar figure who had attended their previous sessions as a subordinate and who now presided in his meekest manner. Recalling the President's treatment of his memo, Bundy wrote ten days later that it was "typical of him that he made it his own in action." Johnson opened with a silent prayer, begged their guidance in the perilous times ahead and added a short appeal that several of them by now could have recited from memory: He told them that he needed them more than President Kennedy had.

The Attorney General's participation in the 25-minute meeting must be treated scrupulously, for the friction between the two men may easily be distorted by partisans. Each was under unprecedented pressure. If Johnson's discomfort seems ungenerous, it should be remembered that to the new Chief Executive, Bob Kennedy represented a problem that was unique in the history of Presidential succession. Here was a Cabinet member who looked like, sounded like and thought like the slain leader; who had been his second self; who was one of his two chief mourners; and who, at times, had—as everyone around this table knew—exercised executive power in his brother's name. It was as though Edwin Stanton had been Abraham Lincoln's twin. Historians would be obliged to sympathize with Andrew Johnson, for his contemporaries would have made few allowances, and it is unlikely that Stanton would have been as forbearing as Bob Kennedy.

The Attorney General, for his part, had been preoccupied with the coming funeral. His very presence in the Cabinet Room was something of an accident. After the Mass, he had walked over from the Mansion with McNamara, Bill Walton, Jim Reed, Chuck Spalding and Lem Billings to see whether all his brother's belongings had been removed. He had noticed that M. Sgt. Joe Giordano had neglected to take President Kennedy's Cabinet chair, and early in the afternoon, he decided to check again. The Cabinet had already convened. Bundy, glimpsing him, persuaded him to enter and sit in his own chair.

In Mac's words of 11 days later, "Bobby was late and perhaps would not have attended if I had not told him he must; his condition was that there should be no pictures—which I now know was as hard for the President as a ban against smoking for a 30-year addict—though he accepted it readily in the interest of harmony." Mac's version that afternoon was more tart. To a colleague, he said that he was "worried about Bobby," that "Bobby was reluctant to face the new reality," and that he had "virtually to drag Bobby into the Cabinet meeting."

Kennedy's own recollection was merely that "I went by, and Mac Bundy said it was very important that I come in. So I went."

His appearance evoked a dramatic response. Several members leaped to their feet, and one clasped his hand and clapped him on the back. Others, including Johnson, did not move. The Attorney General sat back brooding, his heavy eyes hooded. Yet for a man in his position, silence itself can be significant. A half-hour earlier, one television network had openly speculated that Bobby Kennedy might resign. His immediate future was being debated in millions of offices and homes, and his laconic manner was noted and remembered by everyone around the long table—by President Johnson, perhaps, most of all.

After the President had finished, two men spoke: UN Ambassador Adlai Stevenson, because of his seniority in the party, and Dean Rusk, as leader of the Cabinet. Their motives were identical; they wanted the record to show that they intended to keep faith with the new administration. Stevenson was surprisingly awkward. The most experienced and eloquent orator there, he had written a five-paragraph testimonial, which he proceeded to read word for word. He reminded them that he had pledged his support at President Kennedy's first Cabinet meeting, repeated that pledge now, said that "there can only be a moment's pause in the nation's business," and de-

continued

clared to Johnson, "Your unique qualities of character, wisdom and experience are a blessing to our country in this critical hour, and our confidence in your leadership is total." Rusk was equally determined to praise Johnson.

After the Johnson-Rusk colloquy over letters of resignation, the President asked that they all submit departmental recommendations by Monday. They then dispersed. Nothing had been accomplished, and it was impossible for any of them to leave with a feeling of achievement. Even Johnson, who had been delighted by Rusk and Stevenson, appeared to be disappointed; his subsequent remarks that afternoon indicate that he had hoped for more. To Bundy, it had been a "drab little meeting." Secretary of Labor Willard Wirtz thought it was "awful" and "almost mechanical"; another Cabinet member, who had expected the President to be "strong and affirmative," concluded that it was "highly unsatisfactory"; and one member of the Cabinet decided to speak to him about it. Cliff Carter, a Johnson aide, led him into the EOB office, where the Secretary emphatically recommended to the President that he speak first to the people and then to the Congress. To the astonishment of his caller, Johnson's style had been completely altered in the few minutes since they had adjourned. It was another of those quick-change miracles; in the Cabinet Room, he had been hesitant, but now, as the Secretary noted in his journal, "the frustration seemed gone, he seemed relaxed . . . the power, the confidence, the assurance of Majority Leader Lyndon Johnson seemed to be there."

To this distinguished diarist, the new President spoke frankly of the tension between himself and the Attorney General. He said, "Jackie has been just great. She said she'd move out as soon as she could, and I said, 'Honey, you stay as long as you want. I have a nice, comfortable home, and I'm in no hurry. You have a tragedy and many problems.' " His "real problems," he indicated, were with Bob. He was convinced that Kennedy's late arrival at the meeting had been intentional, and he insisted that Kennedy, bent upon humiliating him, had confided to "an aide" that "We won't go in until he has already sat down." (Kennedy denies this. When the President's interpretation was described to him, he expressed first amazement, then amusement.)

The charge seems to have been unjust, but it was perhaps an inevitable consequence of the LBJ-RFK relationship, or, to be more precise, of the relationship between certain of their advisers. Since the 1960 Los Angeles convention, the association of the two principals had been repeatedly damaged by misunderstandings that could usually be traced to this or that "aide." Thus, the Vice-President had been convinced that the Attorney General had never forgiven him for remarks at Los Angeles critical of Joseph P. Kennedy. Ironically, Robert Kennedy had neither heard the criticism nor read of it. Johnson men were convinced that Bob disliked their leader. Kennedy men repeatedly reassured them, without success, and the Johnson Administration had scarcely begun to gather momentum before the press speculated at length on "the feud" between the two men. To be sure, in temperament and manner, they were very unlike. That had also been true of John Kennedy and Lyndon Johnson. It had not led to a vendetta then, nor did it now.

Whatever the source of the strain, its existence was unquestionable. The consequences of Robert Kennedy's tardiness, Johnson told his caller, had been deeply embarrassing; by entering in the middle of the President's remarks, the Attorney General had destroyed their effect. The Secretary, who was sympathetic—and immediately conveyed his sympathy to another Cabinet member who had regarded the meeting as a disaster—wrote that, "There was real bitterness in Lyndon's voice on this one."

Clearly, Johnson regarded the late President's brother as a formidable obstacle. He agreed with his visitor that he ought to speak to the Congress as soon as possible. Congress was thinking of recessing. Yet Johnson was apprehensive that an earlier address than the one he had tentatively planned "might be resented by the family." Having made what he described as his "pitch" for a quick address, the caller left. In the suite's anteroom, Sargent Shriver was waiting. Shriver was one member of the family who had felt close to Johnson, and he wanted to wish him well. "Is there anything I can do?" Shriver inquired.

There were, he was told, two unsolved questions: the occupancy of the oval office and the timing of the address to the joint session. (Interestingly, Johnson displayed little interest in a nationwide speech during these days; he was concerned first with the Congress, not the people. A televised address on the Hill would, of course, reach just as many Americans as a White House fireside chat.) Johnson observed that Rusk and Bundy, among others, strongly believed that he should be meeting his appointments in the West Wing, pointing to the symbolic importance of Presidential residence in the Mansion. Furthermore, he observed, he would be much closer to vital communications equipment there. Lastly, both Johnson and Bill Moyers emphasized the urgency of a joint session on Tuesday. The State Department was pressing him especially hard.

The President was in no hurry to evict Mrs. Kennedy. On the contrary, he was content to sleep at The Elms indefinitely. It was the Chief Executive's office in the West Wing that he wanted, not the pomp of the Executive Mansion.

Shriver's position was awkward. He was foggy about precedents, and his devotion to the Peace Corps had left him little time to explore other governmental labyrinths. "I remembered that the West Basement had been chewed up when Jack was President," he said later, "and while I hadn't known what was going on, I had a hunch it had something to do with the hot line." Shriver, normally quick to make up his mind, couldn't decide about the oval office. In his words, Bundy, whom the President was quoting to him, "felt that it was first of all the President's office, while the family naturally felt that it was Jack's office. I'd been in the Navy, and I was inclined to agree with Bundy; you don't leave a command post empty because the commander has fallen." On the other hand, "It seemed unseemly speed to move into that office before Jack was out of the White House. Jack's body, after all, was still lying in the East Room."

This reluctance from the most sympathetic member of the late Chief Executive's family appears to have resolved the issue for Johnson; he did not mention the issue again that day.

That left the timing of the address. Once again, Johnson cited pressures from "the leadership of the Government." For those who were accustomed to Kennedy's frontal approach, such obliqueness was perplexing. Kennedy had characteristically prefaced an order with the phrase, "In my judgment." If you disagreed, you debated with him. Johnson presented himself as an entrepreneur of other men's ideas. In the event that they proved to be bad ideas, the promoter wasn't at fault; he had merely offered them for consideration. His cautious introductions ("Bundy says," "Rusk says," or "McNamara says") absolved him from responsibility. On this issue, he told Shriver, the voices were unanimous. All agreed that the President should go to the Hill "as soon as possible," that "it was important to show that the Johnson Administration was taking over."

Shriver agreed, though his reasons were his own. Extrapolating from his Peace Corps travels, he had realized that Asia, Africa and South America would assume that "whoever had killed President Kennedy would now be President." Dispelling that notion was important. The sooner the world was told that Johnson was not an employer of bravos, the better off the United States would be, and when both Johnson and Moyers said they preferred a Tuesday talk, Shriver replied, "I'll speak to Bobby."

Flak followed. Unknown to Shriver, Bundy had been assigned the same mission, and he had failed. Robert Kennedy had replied crisply, "I don't like that. I think you should wait at least one day after the funeral." Bundy had told Kennedy that "they"—he was adjusting rapidly to the Johnsonian ambiguity—"want it on Tuesday." The Attorney General snapped back, "Well, the hell with it. Why do you ask me about it? Don't ask me what you want done. You'll tell me what it's going to be anyway. Just go ahead and *do* it." If Johnson thought a Kennedy relative would make a more effective emissary, he was wrong. He was merely sending Shriver into a trap. Kennedy, exasperated by the new President's failure to communicate with him directly, listened to the proposal and then said sharply to Sarge, "Why does he tell you to ask me? Now he's hacking at you. He knows I want him to wait until Wednesday." Shriver darted back, was ushered in by Moyers and discreetly reported that "Bob prefers you wait a day, unless there are overriding reasons for having the address earlier." Johnson immediately picked up his telephone and began pressing plastic buttons. To his listeners, he said tersely, "It will be on Wednesday." Each of them needed no brief-

ing; every member of his staff was familiar with the background and was awaiting word from him. Shriver swiftly relayed the decision to his brother-in-law, and all that remained was a formal release from Pierre Salinger's office. Shortly before 6:30, the networks broadcast that President Johnson would speak to Congress at 12:30 p.m. on Wednesday, November 27, the day before Thanksgiving. No commentator hinted that the President was being either hasty or a laggard, and only a handful knew of the dissension behind the announcement.

IT WAS UNDERSTANDABLE that Johnson would blame much of his frustration on Robert Kennedy. The Attorney General was symbolic of the past he had to overcome. It was also unfair. A study of Bob Kennedy's movements that day reveals that virtually all his time was preempted by funeral preparations. A satisfactory solution of the situation was clearly impossible; the need for the Government to proceed was at odds with the Kennedys' grief. The President was being thwarted by something larger than any individual. He was attempting to start a new Government, and everyone who could help him, including his own Texans and Washingtonians who had been close to him for a third of a century, was floundering in the greatest surge of emotion all had ever known.

Just before departing for The Elms, Johnson talked to Ted Sorensen. It was a long session, and representative; the invisible obstacles between them would have existed had Robert F. Kennedy never existed. Although determined to quit quietly, Sorensen took his responsibilities keenly, and he was anxious to be helpful. Before crossing the lot, he had prepared a list of ex gent Presidential business. With Moyers taking notes, they checked off each item carefully. Ted recalls his own manner a· "blunt and tough." Yet it was not hostile. The President brushed off his resignation and listened impassively to his evaluation of the White House staff. (Unknown to him, Johnson had been inquiring of others, "Is Sorensen an easy man to work with?" The answers had been mixed.) Early in the session, the President asked, "What do you think of the possibility of a foreign government being involved in this?" Ted said instantly, "Do you have any evidence?" The answer was that there were no hard facts. Johnson showed him an FBI memo advising him that the rulers of an unfriendly power had been hoping for Kennedy's death.

The report was too hazy for serious consideration. There were no names or facts, and the name of the FBI's informant was in code. "Meaningless," said Sorensen, handing it back. The President said nothing. He asked whether Sorensen thought unusual safeguards would be necessary to protect him during the funeral. Ted shook his head; he didn't.

Sooner or later—it was to be sooner—the relationship between the new President and the former President's Special Counsel was bound to deteriorate. As Sorensen had told a Cabinet member shortly after three o'clock, he had invested over ten years in John Kennedy's career, and now the investment was gone—gone as surely as though he himself had been the victim in Dallas. Kennedy had chosen him because the fabric of their personalities had meshed perfectly. But Ted and Lyndon Johnson were entirely different men. Their styles were a world apart. Throughout that weekend, the President gave every sign of believing that he could preserve the Kennedy team intact. He couldn't, and when he had grown surer of himself, he realized that he had to create his own team. Afterward, and especially after he himself had become an elected President in his own right, Johnson would seem to have forgotten that he had ever pleaded for the support of Kennedy's aides. The very mention of their names would annoy him. Within a year, he would even resent the Kennedy aura itself, and become so sensitive to it that any Secret Service man or White House chauffeur who wore a PT-109 tie clip would run the risk of incurring the Presidential wrath.

CHAPTER FIVE

READING THE THOUGHTS of a stricken man is difficult; nevertheless, it was becoming increasingly clear to those around Joseph P. Kennedy that he sensed something was wrong. Ted Kennedy had told him that he was back in Massachusetts for a speech, yet Ted had gone off to the eight o'clock Mass with Eunice Shriver. The television set was inoperable. Joe Kennedy gestured impatiently at his niece, Ann Gargan, and she realized that he had noticed the absence of any morning newspaper. Feebly, she explained that Frank, the family chauffeur, had been unable to pick them up because he had driven Aunt Rose to church. Joseph Kennedy's eyes sharpened. Then he looked out through the dining room's big picture window and saw his wife emerging from the foggy lawn, dressed all in black, her face obscured by a black veil. He made a queer, jerky movement that, Ann later believed, was a sign that he had felt the first wave of impending disaster. The truth couldn't be kept from him much longer. Ted knew it, and after breakfasting, the Senator asked Eunice to join him in their father's bedroom. By now, the tension in Joe was alarming. He had been impatient with Ann and the nurse throughout his regular exercise period in his indoor pool. Back in his bed, he stirred restlessly and glared at the dark television screen. As a precaution, his physician, Dr. Russell Boles, had been summoned from Boston and was lurking down the hall, within earshot.

Ted and Eunice entered and sat by the bed. Joe waved indignantly at the screen. The Senator turned toward it, explaining that they had all been at Mass, and his father gazed out at the sea. In aphasia, a patient's mind often drifts that way. One moment, you have his undivided attention; a moment later, he is off in a private reverie.

Ted said, "There's been a bad accident. The President has been hurt very badly."

Joe Kennedy's head snapped back. He stared directly into his son's eyes. He was following every word.

"As a matter of fact," Ted said, "he died."

Several contemporary accounts declared that the President's father did not cry. That was untrue. The retired tycoon was deeply emotional, devoted to his children. When his oldest son had been killed in action, he had been well. Nevertheless, he had wept then, and he wept now. Ted and Eunice did their best to comfort him, but they, too, had been ravaged; it was a time of unrelieved desolation. After a while, Joe recovered sufficiently to ask for details. There were more tears, and Dr. Boles advised Ann that immediate relaxation was imperative.

Unfortunately, that was impractical. There was no way his patient could be diverted now. Ann brought the Boston *Globe* and the Boston *Record American* into the bedroom; her uncle saw the pictures from Dallas and collapsed again. The doctor entered and gave him a sedative. Like the drug Dr. Walsh had administered to Jacqueline Kennedy at Bethesda, it had no effect. Ted conferred with his brother by telephone; Bob agreed that he should stay there until their parents had settled down.

The news having been broken, Ann thought her uncle might as well watch television. In 25 minutes, a Hyannis technician had repaired the wires Ted had violently yanked away the previous evening, and the President's father, propped up on pillows, was looking at his son's coffin in the East Room, watching the honor guard change shifts. He began to sob again, and for the next several hours—indeed, throughout most of the next two and a half days—he alternated between a yearning for information and a revulsion against it. At his direction, Ann and nurse Rita Dallas switched the knob on and off, on and off.

The crisis came later in the afternoon. Word reached the compound of rumors that the President's father had died of a heart attack. Senator Kennedy debated the wisdom of calling a press conference to scotch the report and concluded it was best to say nothing. At the height of this frantic activity, Joe Kennedy decided he must go to Washington immediately. Ann stepped into the bedroom and found him struggling with his clothes and fumbling for his wheelchair. There was no way to dissuade him. Another elderly uncle might have been gently pushed back among his bedclothes, but nobody had ever pushed this man around, and his slender young niece didn't try. Instead, she helped him dress and wheeled him to the car. She suggested they just ride around; he vehemently refused and directed her straight to the airport. Had adequate transportation existed, there is little doubt that the Presi-

continued

dent's father would have appeared in the White House within two hours. He was in an inflexible mood, and none of Ann's arguments impressed him. Since his stroke, however, Joe Kennedy had confined his flying to the *Caroline*. The plane wasn't there, so the two of them just sat in the gloaming, squinting at commercial airplanes until he signaled her to start the car.

She drove slowly back to the compound and helped him back into bed. Adjusting covers, Ann had the feeling that in some indefinable way, the trip had helped him. He wasn't resigned. He remained inconsolable, groping in a solitary, unfathomable agony. But he had done something. He had tried.

SATURDAY EVENING, Kenneth Galbraith and Arthur Schlesinger, Jr., met again at the Averell Harrimans'. Galbraith, still convinced that he would be the chief author of President Johnson's address to the joint session of Congress, described his first draft to Schlesinger. It was like putting his hand in a stove. Galbraith had taken the line that the issue was continuity, that the future "was greater than the life of any one man."

That was what the new President had told him, and he had taken the cue. Schlesinger felt this was heartless. He thought the speech ought to come down hard on Kennedy's achievements.

In his journal, Galbraith observed that "Arthur was in an appalling mood and spent a considerable part of the evening attacking me."

MRS. KENNEDY sent for Bobby and said, "I have to see Jack in the morning, I want to say good-bye to him—and I want to put something in the coffin." He understood. It was a secret of his strength, and a source of the special affection shared by those close to him, that he never asked them for reasons. If you were a relative or a friend, that was enough. He assumed you knew what you were doing, and the franker you were, the better he liked it. He jotted down their Sunday schedule for her and said, "I'll come for you. We'll go down there together."

After he had gone, Jacqueline Kennedy wrote her husband a letter. Later, she was uncertain about the precise time of composition. Medication and accumulated sleeplessness had blunted her perception, and the servants had drawn her drapes in the southwest corner of the Presidential apartment so tightly that it was impossible to distinguish daylight from night. Now, in her darkened room, she wrote a final impassioned letter, filling page after page. Then she folded the paper and sealed the envelope.

CHAPTER SIX

AFTER MASS on Sunday morning; Jacqueline Kennedy and her brother-in-law went straight to the Presidential apartment. She told her daughter, "You must write a letter to Daddy and tell him how much you love him." John was too little to write, so she asked him to mark his sheet as carefully as he could. It was, she said, to be a message for his father.

Then, holding John's hand, Caroline helped him scribble up and down as best he could. It was wholly illegible, of course, but their mother, sitting on one of the little nursery chairs while Miss Shaw hovered over the children, saw that they were doing their best. Mrs. Kennedy had three envelopes now, theirs and her own; yet the letters weren't enough. The impulse that had begun at Parkland, when she had fastened her wedding ring to his finger, had grown stronger. She had become obsessed by an urge to leave something he had treasured with him.

There were, she now remembered, two gifts from her that he had really loved. Before their marriage, he had never been interested in men's jewelry; if he had needed a pair of cuff links for a formal shirt, he would pick up a set in a drugstore. As a young girl, her own allowance had been rather small, and at the wedding, she had given him a briefcase. A year later, however, she had seen a beautiful pair of inlaid gold links in a New York show window. The price was staggering—$800—but she had splurged. It had been her first really expensive present to him, and it was a great success; he had worn them on every possible occasion and displayed them with pride.

The second present had begun as a light gesture. During their second year in the White House, she had read a newspaper story about a man who had carved a likeness of the President. The craftsman's real speciality, the account went on, was scrimshaws—decorative articles carved from whalebone. She told Clint Hill it might be rather nice to have a scrimshaw bearing the Presidential seal. Clint found the man, and the result was an unexpected triumph. The man discovered an ancient bull whale's tooth, set it in timbers from a New Bedford whaling ship and spent 180 hours embellishing it with an ornate, early nineteenth-century design of the seal.

On Christmas, 1962, Mrs. Kennedy had given it to her husband. That morning, she had thought of it as "just a little present," but he had been enchanted. From that day forward, he had always kept it on the right-hand corner of his desk, and remembering how much it had meant to him, she had asked Evelyn Lincoln to send it up to her when they returned from Bethesda.

Bearing the letters, the links and the scrimshaw, she and Robert Kennedy descended to the first floor and entered the East Room.

Robert Kennedy had alerted Godfrey McHugh; the General met them at the threshold. Clint closed doors while McHugh folded back the flag, unlatched the casket top and glanced inside to be certain everything was all right. Closing it and replacing the field of stars, McHugh ordered Lt. Donald Sawtelle to march the Death Watch out. Jacqueline heard him. She whispered to Bob, "No, they don't have to leave the room. Even though we're here, Jack would be so"—she groped for a word—"lonely. Just tell them to go to a far corner and turn their backs." The joint-services team had already started to withdraw; McHugh had refolded the flag and was propping the lid open on its hinge.

The Attorney General spoke to the retreating honor guard. "I don't want that," he said quietly, and the Lieutenant halted his four men, ordered a left face, and executed one himself. Flanked by McHugh and Clint Hill, they faced the wall at attention.

Together, the President's widow and brother knelt by the open coffin.

This was the first time Mrs. Kennedy had seen her husband since Parkland. *It isn't Jack; it isn't Jack,* she kept thinking; and she was so glad Bobby had agreed to keep it shut. She put the letters, the links and the scrimshaw in the coffin. Bob took off his PT tiepin. He said, "He should have this, shouldn't he?"

"Yes," she whispered. Then he drew from his pocket an engraved silver rosary Ethel had given him at their wedding. Bob placed this with the letters.

With a lock of her husband's hair, she went out with Bob. She was swaying visibly; Clint Hill was afraid she might faint. She didn't. She retained the sense of purpose that had kept her going for two days. Bob led her into the sharp turn toward the elevator to the second floor.

The schedule was now inflexible. Young John, watching the body bearers, asked, "Mommy, what are they doing?" His mother said, "They're taking Daddy out." John asked, "But why do they do it so funny—so slow?" She said, "Because they're so sad," and the Lieutenant looked away, and forgot the clock.

President Johnson entered, departed and reentered a deeply disturbed man. After attending church services with his wife and Lucy, he had arrived at the Mansion, had been told by an usher that Dean Rusk wished to speak to him immediately on the telephone, and had heard from the Secretary of State what the entire country was learning—that Oswald had just been shot "on television." In the Blue Room, Jean Smith whispered to Mrs. Johnson that she had overheard a servant say the assassin was dying. Johnson greeted the Attorney General, who knew nothing of this, with, "You've got to do something, we've got to do something. We've got to get involved. It's giving the United States a bad name around the world."

IN THE WEEKS that lay ahead, Oswald's death, and especially the manner of his dying, were to loom ever larger until they had assumed undeserved dimensions. At the time, this was untrue. The attention of the national audience was focused on the north portico of the White House. The murder of the assassin almost seemed to be an intrusion. To Robert Kennedy, President Johnson's protest that the United States was getting "a

bad name around the world" was untimely; the Attorney General afterward remembered that "I thought at the time that . . . it wasn't, it couldn't be the thing foremost in my mind."

Dick Goodwin, a *summa cum laude* graduate of Harvard Law School, felt an unprofessional disinterest, a "complete indifference. . . . I wouldn't have cared if I'd been told that Connally had been charged with the shooting." Sarge Shriver picked up the receiver, put it down, and announced, "Somebody just shot Oswald." No one in the office said a word. "We went on," Goodwin put it, "with our business."

IN THE CAR behind the caisson which was bearing John Kennedy's body toward Capitol Hill, Mrs. Kennedy said suddenly, "Oh, Lyndon," (breaking for the first and last time her vow never to call him by his first name) "what an awful way for you to come in."

The new President said nothing. Throughout the ride, both he and Mrs. Johnson were speechless. Robert Kennedy was also silent. Caroline and John were subdued, and to the best of everyone's recollection, Jacqueline Kennedy's consoling remark was the only comment in the lead limousine.

In the rotunda, after the eulogies, Lyndon Johnson stepped forward for the ritualistic wreath-placing by the President of the United States, paused in momentary prayer and returned to his place. Except for the muted sobbing of a sergeant —two colonels were leading him to an anteroom —the great rotunda was silent. The plans had ended here. The 14-minute ceremony was over, and suddenly, Mrs. Kennedy, who had felt faint and was swaying slightly, realized everyone was waiting for her to leave first.

She wasn't quite ready. Facing Robert Kennedy, she asked softly, "Can I say good-bye?" He nodded once, and she took Caroline by the hand. She felt rather awkward, but she didn't want it to end quite yet. To Caroline, she whispered, "We're going to go say good-bye to Daddy, and we're going to kiss him good-bye, and tell Daddy how much we love him and how much we'll always miss him." Mother and daughter moved forward, the widow gracefully, the child watching carefully to do as she did. Jacqueline Kennedy knelt. Caroline knelt. "You know. You just kiss," whispered Mrs. Kennedy. Eyes closed, they leaned over to brush their lips against the flag. Caroline's small gloved hand crept underneath, to be nearer, and in that single instant, an entire nation was brought to its knees. The audience in the rotunda, the national audience, those who until now had been immune, those who had endured everything else were stricken in a fraction of a second. A chord deep in the hearts of men had been touched, and Justice William Douglas felt paralyzed, and General Clifton, half-blinded by his own tears, looked across the circle and saw the Joint Chiefs of Staff standing at attention, their faces set and their cheeks streaming. Still clutching Caroline, Jacqueline Kennedy rose and stepped toward the door with simple majesty. The others stumbled after her.

On the sidewalk, by the waiting limousines, Mrs. Kennedy stepped over to Mrs. Johnson. She said, "Lady Bird, you must come to see me soon, and we'll talk about you moving in."

Taken aback, the new First Lady replied, "Now, there's one thing I want to say about that —I can wait till whenever you're ready." As she recalled later, the widow smiled faintly and said to her, "Any time after tomorrow. I won't have anything to do after that."

At 2:19 p.m., she entered her car. Six minutes later, Frank McGee of NBC, who had withheld the news until now, confirmed that Lee Oswald had died. Jacqueline Kennedy hadn't even known he had been shot. The murder of the assassin, she thought, was "just one more awful."

FOR THE UNITED STATES, the sole imperative was that Johnson swiftly create an atmosphere of confidence, and in that role, he was proving superb. It didn't much matter that he was conjuring confidence, or that he himself may have suffered pangs of self-doubt; wisely, he kept any stage fright to himself. Undoubtedly, he suffered from it, but only rarely did he permit anyone to peer behind his elaborate stage props and see hesitancy there. Secretary of the Treasury Douglas Dillon had a fleeting glimpse of it. The President and the Secretary discussed the Secret Service and the walk from the Executive Mansion to St. Matthew's. Since Oswald's murder strongly suggested an elaborate plot, Secret Service Chief James Rowley didn't want Johnson to follow the gun carriage on foot. At first, the President agreed. "But then Lady Bird told me I should do it," he told Dillon, "so I changed my mind."

Ken Galbraith was continuing to express his desolation in his own peripatetic fashion. He described, with the pride of authorship, his revised version of President Johnson's address. Observing Mrs. Kennedy's distress, British Ambassador Sir David Ormsby-Gore quickly put in, "Make it as good as you can, obviously, but good as it will be, it won't match Kennedy's speeches." Galbraith replied, "As you are a loyal Tory, I am a loyal Democrat." The Ambassador answered edgily, "On occasions of this sort, I am prepared to be a very disloyal Tory." Their laughter was brittle.

Galbraith then turned to the widow's housing problem and solved it brilliantly. When she told him that she didn't know how much money she would have or when she would have it, he pointed out that Averell Harriman "has more real estate than he knows what to do with. He could buy a house in Georgetown and turn it over to you—it would be a sensible investment for him." Harriman volunteered to move his family to a hotel and turn his own Georgetown home over to Mrs. Kennedy, and after three telephone calls, Galbraith reported to Robert Kennedy that it had been settled that way.

He reported to Bob, not Jackie, for by then she was once more absorbed in ceremonial details. To suggest that she was complete mistress of herself would be inaccurate. She wavered, for example, over the design of the Mass card. Dr. Joseph English had sent up prayers of St. Ignatius and St. Francis, and Ethel brought in a third from her parents' card. The widow said, "I don't want any of these on the back. I'm not going to be pleading with God to take Jack's soul to heaven." Ethel protested that there had to be "*some* mention of God," and then Jackie did precisely what she said she would not do. She wrote out the plea: "Dear God—please take care of your servant John Fitzgerald Kennedy. Please take him straight to heaven." She meant both sentences to be included, but Bob, under the impression that she intended him to make a choice between the two, struck out the second. Other of her instructions miscarried or proved impractical. She specified a black border for the Mass card and didn't get it. Ethel was against black because she felt it should be "not sad, not reminding you of death." For Jackie, that was the very purpose of the card, but it was too late; no printer could include a border in the time left. As it was, the only way White House social aide Sandy Fox could get the job done before the Mass was to use the Central Intelligence Agency press. The CIA agreed to run it through the night. (When Fox reported this, everyone was dumbfounded. None of them had known the spies *had* a press.)

NEAR THE END of the funeral Mass, Cardinal Cushing, to his own surprise as much as everyone else's, broke into English. It was, he said afterward, "an inspiration, like Pope John calling the Ecumenical Council. I hadn't thought of it all before. But suddenly I wanted the human touch."

He cried: "May the angels, dear Jack, lead you into Paradise. May the martyrs receive you at your coming. May the spirit of God embrace you, and mayest thou, with all those who made the supreme sacrifice of dying for others, receive eternal rest and peace. Amen."

The new First Lady thought it "a plea, almost a wail; it didn't betray the dignity of the scene, and yet there was a human note at last. The Cardinal's personal anguish was showing through. It wasn't just a ceremony any more. He was saying good-bye to a man." Across the aisle, the widowed First Lady noticed that Cushing was crying. She looked away, and Caroline saw her tear-streaked face. The small hand reached up to clutch hers. Mrs. Kennedy heard her daughter say, "You'll be all right, Mummy. Don't cry. I'll take care of you."

The casket team shouldered the coffin and bore it out. The band struck up *Hail to the Chief*. This was the last time it would be played for President Kennedy. Jacqueline Kennedy, remembering how the boy had loved to play soldiers with his father, said, "John, you can salute Daddy now and say good-bye to him."

The small right hand rose stiffly. Behind him, Robert Kennedy's face crinkled in pain, and spectators crumpled as though struck. Of all Monday's images, nothing approached the force of John's salute. Mrs. Kennedy, standing erect,

continued

missed it, and when she was shown the photographs afterward, she was astounded. In the past, his saluting had been rather comic. He had used his left hand, bumping his nose on the way up and looking, in her words, "sort of droopy."

But not now. Somehow, the mood and meaning of the day had reached the President's son. His elbow was cocked at precisely the right angle, his hand was touching his shock of hair, his left arm was rigidly at his side, his shoulders were squared and his chin in. His bearing was military, and to see it in a three-year-old, with his bare legs stiff below his short coat, his knees dimpled and his blunt red shoes side by side—to hear the slow swell of the music, and recall how the President had idolized him—was almost insupportable. Cardinal Cushing looked down on the small face. He saw the shadow of sadness crossing it and felt a burning sensation in his chest. Eight months later, he could scarcely speak of it.

AT LAST, THE TWO chief mourners were left alone on the second floor of the Mansion. Five evenings ago, before riding across Memorial Bridge to attend his own birthday party, the Attorney General had talked to the First Lady here for nearly 45 minutes, inquiring whether she was sure she had recovered sufficiently from Patrick's death to endure the strain of the Texas trip and the campaigning ahead.

Now, preparing to cross the river again, he needed no assurance; like him, he knew, she could survive anything except the thought that the yesterdays binding them together might be forgotten. Therefore, with that understated manner that, as much as his voice, stirred sudden memories of the President, he said quietly, "Should we go visit our friend?"

She always kept lilies of the valley in a little gold cup on a hall table, and she stopped to gather a spray. Clint Hill phoned ahead to Arlington. Parking on Sheridan Drive, they walked up between cedar and oak to the new fence. The scene was sharply altered. The vast throngs had disappeared. Standing by the white pickets were only the Kennedys, two military policemen and the superintendent. It was, Clint noted, "very damp and dark and quiet."

One of the military policemen unlatched the gate. Jacqueline and Robert Kennedy stepped inside, and under the flickering torch, he saw a green beret. An MP in the afternoon shift had left his black and white brassard on the evergreens; beside it, a soldier of the 3rd Infantry had propped his buff strap and Old Guard cockade, the symbols of a military tradition that went back to the Revolutionary War. Bob silently pointed to them; and she nodded. Together, they dropped to their knees. The tongue of flame, quite blue at night, flickered in the night wind; its ghost-candle flare danced unevenly on their bowed heads and averted faces, on Clint and the two guards, on the chauffeur waiting below. As widow and brother offered their prayers, the clocks of the capital struck midnight, and rising, she carefully laid her bouquet on the branches, a last gallant plighting of her troth. Then they turned from the scarred earth, leaving the beacon, and walked down into darkness.

ON DECEMBER 1, Jacqueline Kennedy wrote a letter to Nikita Khrushchev that has never before been published:

THE WHITE HOUSE
WASHINGTON

Dear Mr. Chairman President

I would like to thank you for sending Mr. Mikoyan as your representative to my husband's funeral.

He looked so upset when he came through the line, and I was very moved.

I tried to give him a message for you that day—but as it was such a terrible day for me, I do not know if my words came out as I meant them to.

So now, in one of the last nights I will spend in the White House, in one of the last letters I will write on this paper at the White House, I would like to write you my message.

I send it only because I know how much my husband cared about peace, and how the relation between you and him was central to his care in his mind. He used to quote your words in some of his speeches—"In the next war the survivors will envy the dead."

You and he were adversaries, but you were allied in a determination that the world should not be blown up. You respected each other and could deal with each other. I know that President Johnson will make every effort to establish the same relationship with you.

The danger which troubled my husband was that war might be started not so much by the big men as by the little ones.

While big men know the needs for self-control and restraint—little men are sometimes moved more by fear and pride. If only in the future the big men can continue to make the little ones sit down and talk, before they start to fight.

I know that President Johnson will continue the policy in which my husband so deeply believed—a policy of control and restraint—and he will need your help.

I send this letter because I know so deeply of the importance of the relationship which existed between you and my husband, and also because of your kindness, and that of Mrs. Khrushcheva in Vienna.

I read that she had tears in her eyes when she left the American Embassy in Moscow, after signing the book of mourning. Please thank her for that.

Sincerely
Jacqueline Kennedy

END

Old Morrissey Resume Flaunts Kennedy Ties

Judiciary

He Boasted to Bar Association Of His Closeness to Family; Senate Slates Vote Today

EU Judges 10-25-65

By JERRY LANDAUER

Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON — Kennedy crony Francis Morrissey, nominated for a Federal judgeship at the insistence of young Senator Ted, admits he made a "stupid" mistake three decades ago in going to Georgia briefly for a quickie law degree. The "school" he attended was a law firm of which one partner was the "dean."

Many critics of Mr. Morrissey are half prepared to overlook that youthful episode, undertaken during desperate Depression days by a poor longshoreman's son. What rankles certain critics more is Mr. Morrissey's unhesitating invocation of political pull as a qualification for elevation to the bench.

It's widely accepted, of course, that politics influences selection of judges, and that assumption will be reinforced if the nomination clears the Senate in a vote scheduled today. Mr. Morrissey's mistake was in committing this view to paper in a resume prepared for the American Bar Association (ABA). The contents of this unpublicized document, in part, explain why the association is stirring such a fuss against the Morrissey nomination.

On one of several occasions when the late President Kennedy considered naming him to a seat on the Federal district court in Boston, Mr. Morrissey submitted three references in the resume to an ABA screening committee. They were, in order, the President's father, Joseph P. Kennedy; Richard Cardinal Cushing, and John McCormack, Speaker of the House.

Reminders of Patronage

It's known, moreover, that all through the document submitted to the Bar Association Mr. Morrissey made plain his record of dedication to the Kennedy clan; even in listing his five children, the prospective judge couldn't resist adding reminders that he basked in the patronage of the nation's First Family and enjoyed the beneficence of Boston's Roman Catholic hierarchy.

One son, he noted in the document, is named Joseph P. Morrissey ("named after Joseph P. Kennedy; Godfather, John F. Kennedy"). Another, he wrote, bears the name Richard Cushing Morrissey ("named after Cardinal Cushing, only child in the history of the world to be christened on television").

The likable, glad-handing Mr. Morrissey's dedicated service to the Kennedy family is well enough known. Joseph P. Kennedy recruited him to help manage JFK's first campaign for Congress in 1946 and, after running various chores for the family in the intervening years, he coached brother Ted through Massachusetts during the 1962 Senate campaign. He is, according to Joseph Kennedy's biographer, among the circle of family "retainers, agents and hangers-on."

The judicial seat which Mr. Morrissey may occupy has remained vacant since it was created in 1961. It's widely assumed that brothers John and Robert couldn't bring themselves to accede to their father's desires by naming Mr. Morrissey earlier; but out of respect for the father's feelings neither did they fill it with some other nominee.

No Help From LBJ

Senator Ted has been campaigning quietly for his father's favorite since July. President Johnson sent the nomination to the Senate this month, though fully forewarned that it would incite much of the bar and the bench. But now the White House isn't lifting a finger to help Ted repel attacks such as that from Charles Wyzanski, chief judge of the district court on which Mr. Morrissey would sit.

"I cannot overlook the obvious fact that the only discernible ground for the nomination of Judge Morrissey is his service to the Kennedy family," Judge Wyzanski says; he is the first sitting judge in the memory of Justice Department aides to open fire on a prospective colleague.

Operating from what has become the pro-Morrissey command post on the fourth floor of the old Senate office building, Teddy is investing the good will he has gathered to keep doubtful Democrats in line. But Maryland's Sen. Tydings, among a half-dozen others, intends to vote with nearly all the Republicans to recommit Mr. Morrissey's name to the Judiciary Committee. If that motion carries, the nomination will die.

Sen. Tydings' defection is important because he is normally a close Kennedy ally. He owes his start in big-time politics to Bobby Kennedy, who named him U.S. Attorney for Baltimore in 1961. To widen the breach, Sen. Tydings suggests the need for an "independent" body within the Government to help select better judges.

Some Johnson Administration judicial recruiters are secretly quite glad that the Morrissey nomination is in deep trouble. "If there hadn't been a real fight," one remarks, "every Democrat in the Senate would have said to himself; 'Well, I've got a guy back

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Old Morrissey Resume Flaunts Kennedy Ties

Continued From Page One

home who wants a better job. I'll make him a judge.' "

Until now, the ABA's committee on the Federal Judiciary has been waiting for an inviting opportunity to protest what it regards as erosion of the once-intimate cooperation between President and bar in choosing judges. By deftly standing aside on the Morrissey matter, the White House has let Ted Kennedy bear the burden of ABA displeasure.

An example of what disquiets the ABA: This summer Mr. Johnson elevated former Texas Congressman Homer Thornberry from District Judge to the Fifth Circuit Court of Appeals without bothering to consult the ABA committee. It was the first time since 1956 that a prospective appointee's name hadn't been submitted in advance.

More important, the Johnson Administration has quietly changed the ground rules for consultation and screening. The Justice Department no longer invites the ABA to screen several candidates for the same vacancy simultaneously, as was done under procedures arranged with President Eisenhower's Attorneys General. These informal ABA ratings in no way bound the White House but, particularly in the absence of political pressure, the top-rated choice usually got the job.

"By letting the bar committee pick over a litter, the Bar Association wangled its choice," a Johnson aide complains. "Often he was a blue-blood, a Brahmin of the bar who had no sympathy with humanity."

To reduce the ABA's influence, present Administration practice is to submit one candidate at a time for screening.

Many Bar Association leaders are unhappy, moreover, about the highly partisan trend of judicial appointments under Presidents Kennedy and Johnson. And the recollection of President Eisenhower's somewhat less partisan approach is among the factors swinging GOP Senators against the Morrissey nomination.

"Eisenhower rated judges almost as high as generals," one official familiar with that Administration's judge-choosing methods recalls. Ike did name 76 Republicans and only 11 Democrats to the Federal bench, but he acted with the knowledge that there was a heavy predominance of Democratic judges when he took office. When he left the White House in January 1961, the party scales were almost equally weighted — 161 Republican judges and 160 Democrats.

President Kennedy, given the opportunity to fill 73 new judgeships plus some existing vacancies, untilted the balance decisively. All 80 of his first 80 judicial appointments were Democrats; later, though, he did name eight Republicans. LBJ has picked only three Republicans among his 50 appointees.

EFVP Politics - Labor

THE UNIVERSITY OF MICHIGAN — WAYNE STATE UNIVERSITY
INSTITUTE OF LABOR AND INDUSTRIAL RELATIONS

Labor in American Politics

by CHARLES M. REHMUS

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Institute of Labor and Industrial Relations

All Americans have a vital stake in the shaping of sound public and private industrial relations policies and in the expansion of pertinent knowledge and skills. The Institute of Labor and Industrial Relations is a joint agency of The University of Michigan (Ann Arbor) and Wayne State University (Detroit). It was established in the spring of 1957 in order to maximize the contribution of each University, in activities related to industrial relations, to the people of Michigan and to the educational and research needs of workers and management.

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The Institute is grateful to Basic Books, Inc. for permission to reprint the enclosed article which appeared in *Labor in a Changing America* edited by William Haber, 1966. This volume originated in the Voice of America "Forum" series. Charles M. Rehmus is Co-Director of the Institute.

LABOR IN AMERICAN POLITICS

CHARLES M. REHMUS

19 LABOR IN AMERICAN POLITICS

Charles M. Rehmus

Foreign trade-union delegations and individual union officials who visit the United States almost always show a lively interest in the political role of American labor. This interest ordinarily takes the form of questions such as: Why doesn't the American trade-union movement have its own political party? Why don't your unions have political goals? Is it true that American workers are apolitical? Such questions are not naïve, particularly when asked by trade unionists from countries where the labor movement is closely aligned with one particular political party. Moreover, the view they reflect—that the American labor movement is almost exclusively concerned with collective bargaining as the means to protect worker rights and improve wages and working conditions—is a view shared by many Americans.

There is a widespread assumption that organized labor in the U.S. is economically rather than politically oriented. Such an assumption is entirely erroneous. American labor has been involved in politics at least since the 1820's. In one sense, the history of the American labor movement can be viewed as a record of conflict between leaders who stressed the importance of political activity versus those who argued the primacy of obtaining economic gains for wage-earners.

The final ascendancy was gained by those who believed in business unionism. Even those who most strongly supported this point of view, however, were aware that economic gains must be supported by at least some level of political power. The character and degree of labor's political activity has changed many times. Alliances have formed, separated, and regrouped. Influence has waxed and waned. But there has almost never been a time when

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American union leaders were not concerned with politics and some kinds of political action.

LABOR AS A PRESSURE GROUP

In short, it is true that American unions today devote their major attention to control of the job, improved working conditions, and higher standards of living for workers. They seek to achieve these objectives primarily through collective bargaining, rather than through class propaganda warfare or through seeking political office directly. Nonetheless, American labor organizations have engaged in substantial political activities throughout their history—never more strongly than at present. These activities, however, have assumed the pattern of pressure politics—attempts to influence public policy—rather than party politics per se.

This choice to be a pressure group rather than a party makes very good sense in terms of the nature of the American political system. It would have been almost impossible for American labor to develop a major political party with its base solely or primarily in the labor movement. There are a number of reasons for this:

1. The size of the United States and the diversity of interests in this nation make it impossible for a party to come to power by appealing to a single interest or by relying on a single set of issues.

2. The composition of the major parties in the U.S. is extremely diverse, and the parties have always shared the labor vote. The American tradition of family influence on political-party choice militates against a clear-cut ideological division of the electorate based on class differences.

3. The powerful position of the president of the United States in the American political system has meant that any truly national party must be a serious competitor for this office. A national organization must be developed if a party is to have an opportunity to elect a president. Labor's strength has always been concentrated geographically. Today, for example, organized labor has a substantial number of adherents in only ten or a dozen of the fifty states. This makes it practically impossible for labor to develop a national political party.

4. State laws favor existing political parties and encourage tra-

ditional voting habits. In many states, new parties must meet extraordinary requirements in order to get on the ballot. Moreover, American candidates must be residents of the district in which they run for office. There are very few electoral districts that are composed primarily of labor voters. This complicates the problem of electing a substantial number of labor representatives to either state or federal legislatures.

5. American political parties have traditionally had low discipline and little centralized control over officials elected under their banner. American unions have likewise rejected specific direction from national bodies. Both of these traditions of autonomy would make a national labor party difficult to control.

6. Finally, and most important, the existing American political parties have shown a marked ability to come to terms with organized labor. The realism with which the large urban party machines in the U.S. have established political alliances with union leaders has ordinarily drawn off any substantial pressure for organized labor to set up a competing political organization.

In summary, for reasons of ideology and tradition, and because of the basic structure of the American political system, most leaders of organized labor have been uninterested in working toward an independent labor political party. This has been true particularly since the rise of the American Federation of Labor, and is still true today. Labor is very much involved in politics, but as an adjunct to, rather than a competitor with, the existing parties. It is committed to raise funds for political activities and campaigns and is extremely active in lobbying, in public relations, and in attempting to educate union members to favor certain programs and candidates.

Before looking more closely at these contemporary activities, however, let us turn briefly to the history of American labor to see how these strategies developed.

LABOR IN POLITICS IN THE NINETEENTH AND EARLY TWENTIETH CENTURIES

Pragmatism has been the characteristic philosophy of most of American labor throughout its history, and this approach carried over into its attitude toward political action. During the forma-

tive years of the modern trade-union movement, the late 1820's and 1830's, American workers were already enfranchised. Organized agitation to obtain the vote was unnecessary. This also meant that many workers developed early a traditional affiliation with an existing party which made it difficult to interest them in independent labor or workingmen's parties. Then, as now, labor represented a minority of the American electorate which, along with the lack of class consciousness of most workers, almost foredoomed any national labor party.

Moreover, throughout most of the nineteenth century, the units of government whose enactments most concerned labor were state and local. Many city and state labor groups quickly established satisfactory relationships with the dominant political machine in their area, regardless of the national party affiliation of the machine. These created a network of local allegiances that militated against the creation of competing labor parties or adherence to either of the major parties of the national level.

Pragmatically then, independent political action made little sense to the early American labor unions. Although they developed local political alliances, it should be noted that only in times when economic recession or intense employer opposition prevented labor from maintaining its position by means of collective bargaining did it turn to concerted political efforts. First, labor ordinarily attempted pressure-group action directed at one or both of the two existing political parties. Only when the major parties proved unresponsive to labor's demands did the union movement turn to independent action. For the same general reasons, labor's independent political efforts ordinarily subsided quickly—either owing to an improvement in the economic climate or, as commonly, because one of the major parties embraced its cause.

Thus, for example, the workingmen's parties that sprang up in a number of American towns and cities in the late 1820's have been attributed to the depression of 1828–1829. An equally important factor in their creation, however, was the indifference shown by both the Federalist and Whig parties to workers' problems. These early workingmen's parties had died out by the 1840's, even though this too was a period of economic instability, primarily because the Jacksonian-Democratic movement had

taken many of the objectives of the early labor parties over as its own. During this period, the labor movement was able to exert some pressure within the existing political structure, its greatest efforts directed toward enactment of ten-hour-day legislation.

In the depression that followed the Civil War, labor attempted to gain the eight-hour day through similar pressure tactics. The vehicle for these efforts was the National Labor Union, a federation composed of delegates of local unions, trades assemblies, and national unions. Only when legislation that had been enacted proved inadequate and candidate promises hollow, did the NLU determine to chart its own political course. For that purpose, it created a political arm, the National Labor Reform Party. But that party's first convention was also its last. Experienced politicians, both Democrats and anti-Grant Republicans, simply took it over.

No one party or political movement benefited from the unrest caused by the Panic of 1873 and the depression that followed. General discontent was so great that a number of political alternatives arose, each receiving a share of labor adherents. Some workers joined the Greenback-Labor party; others flirted with socialism. However, by the late 1870's, clearly by the early 1880's, most workers found that the Noble and Holy Order of the Knights of Labor, with its call to all who engaged in "honorable toil," had the greatest appeal.

Although the Knights had both an economic and a political program, it is the latter which concerns us here. For most of its organizational life, the Order refused to endorse any party at the national level. Instead, it concentrated on lobbying efforts in Washington. At the local and state levels, however, its constituent assemblies were heavily engaged in political activity, often in combination with local reformers and state and local trade-union federations. In the East, these coalitions usually worked with the traditional political parties. In the West, they tended to develop their own political organizations, often called United Front or United Labor parties. The effectiveness of these tactics at lower governmental levels is indicated by the substantial number of state laws relating to labor and working conditions enacted during the 1880's.

The year 1886 marked the turning of the tide against the Knights. As prosperity returned, the skilled craftsman, willing enough to join with his less-skilled brethren during the lean years, now preferred to go it alone. By 1890, what was left of the Knights had allied itself with the Populist party. By then, however, the skilled worker was no longer a member of the Noble and Holy Order. His interest in craft unionism had revived. In turn, his union had joined a new national organization—the American Federation of Labor.

THE AMERICAN FEDERATION OF LABOR

Much of the new Federation's policy toward political action was shaped by its long-time president, Samuel Gompers. To Gompers, any national labor organization that engaged in partisan politics was signing its own death warrant. Aside from lobbying, labor's only political activity should be to use its votes to tip the election balance—to reward labor's friends and defeat its enemies. This doctrine of minimal political involvement, which came to be known as voluntarism, had several important functions. It gave labor considerable leverage in close elections in areas where workers were numerous. It avoided the diversion of organized labor's resources and energy away from what Gompers thought was its primary function—collective bargaining to achieve economic gains. It prevented undue community hostility toward the AFL which might have resulted from "radical" independent political adventures. Finally, as noted previously, voluntarism allowed AFL affiliates to maintain beneficial relationships with state and local political machines, regardless of the party with which such relationships had been formed.

After the turn of the century, Gompers and the AFL did relax somewhat their dedication to voluntarism. In 1908, the Federation endorsed the Democratic candidate, William Jennings Bryan for president. Increasingly friendly relationships between the AFL and the Democratic party were maintained throughout the period of World War I. In 1924, the Federation endorsed the candidacy of Robert M. La Follette for president under the banner of the Progressive party, but the failure of this venture reinforced Gompers' general faith in the virtues of nonpartisan-

ship. Even following Gompers' death, the AFL remained clear of partisan politics for another twenty years.

It should be remembered, however, that the AFL during this period represented primarily skilled workers—the "aristocracy of labor." After the demise of the Knights of Labor, there were few traditional avenues of organization open to the less skilled wage-earner. This probably accounts for the rise of organizations such as the Western Federation of Miners and the IWW (International Workers of the World), and, in part, for the increased voting strength of various socialist parties during the early twentieth century.

This gap between the economic power of the organized skilled workers and the largely unorganized mass of unskilled workers remained unchanged until the crash of 1929. Then, skilled or unskilled, in a union or not, the wage-earner was unemployed and helpless.

THE CIO AND THE CHANGE IN LABOR'S POLITICAL ATTITUDES

The worldwide depression of the 1930's profoundly altered many aspects of American society. Its impact on the American trade-union movement was severe, leading to fundamental changes in the structure of unionization. Initially, a split over new organizing campaigns and techniques developed within labor's ranks. A number of union leaders, chief among whom was John L. Lewis of the Coal Miners, thought that the AFL's traditional reliance on union organization of only skilled workers was inadequate to meet the needs of the times. The trade-union movement, they argued, must also organize semiskilled and unskilled workers, particularly in the growing mass-production industries. New Deal legislation, such as the National Industrial Recovery Act, encouraged expansion of union organization across whole industries. By 1935, the split between the traditional craft unions and the newly formed industrial unions had widened to such a point that the industrial unions and their leaders were expelled from the AFL. In 1938 these leaders formed their own federation, the Congress of Industrial Organizations.

In its organizational drives, the CIO relied heavily on alleged

government support. Lewis, for example, sent organizers into the minefields claiming "President Roosevelt wants you to join the union." The CIO leaders believed that if their new organization was to be maintained and was to continue to grow, the re-election of Roosevelt in 1936 was a necessity. As an initial step in this direction, Lewis made a gift to the Democratic party of 500,000 dollars from the United Mine Workers' treasury. Other CIO unions also contributed liberally. The CIO's contribution to the Democratic campaign in 1936 came to over 700,000 dollars—an immense sum when compared to the 95,000 dollars contributed by the AFL Executive Board to national political campaigns in all of the preceding thirty years.

Additionally in 1936, CIO leaders created a national body called Labor's Non-Partisan League as a medium for union campaign activities. Initially, both AFL and CIO leaders were represented on the League's governing board, although by 1938, the AFL representatives had withdrawn.

Lewis anticipated that his financial support of the Democratic party in both the 1936 and 1938 elections would result in his being the primary labor advisor to the Roosevelt administration during its second term. When these expectations did not develop and when Roosevelt failed to support the CIO on several occasions, Lewis became disenchanted. In 1940, he actively opposed Roosevelt's campaign for a third term and appealed publicly to CIO union members to support the Republican presidential nominee, Wendell Willkie. Lewis' appeal was rejected by the American voters, including most trade-union members, and Roosevelt was easily re-elected to a third term. As a consequence of this repudiation, Lewis resigned as president of the CIO. Leadership of the CIO and its burgeoning political activities then fell to other men.

In 1943, the CIO Executive Board created a permanent Political Action Committee (PAC). During 1944, the political expenditures of the PAC, nearly a million dollars, were the greatest effort ever made by an American labor organization in politics.

At the same time, the AFL followed its traditional political policies; it published and distributed the voting records of Congress and periodically selected a nonpartisan campaign committee

to influence congressional and presidential elections. Unlike the CIO, it maintained no permanent political department. As a result of the passage of the Taft-Hartley Act in 1947, however, and in response to what it deemed the anti-union sentiment of that Act, the AFL established Labor's League for Political Education (LLPE). The LLPE was a counterpart political organization to the CIO's PAC, raising and spending nearly a quarter of a million dollars for campaign activities in each of the 1950 and 1952 elections.

With the merger of the AFL and CIO in 1955, a permanent committee was created to supersede PAC and LLPE. The new organization was known as the Committee on Political Education (COPE). It was given a threefold responsibility: meet the need for political education for workers, encourage workers to register and vote, and urge union members to become active in political life. It is largely through the national COPE organization and through the semi-independent COPE affiliates created by a number of international unions that organized labor in America participates today in the political process.

LABOR'S CONTEMPORARY POLITICAL ACTIVITIES

Currently, American labor engages, both in its traditional role as a pressure group and also as an active participant, in election politics. The first of these functions—pressure-group activities to obtain policy and administrative benefits through lobbying—does not require extended discussion.

Like most interest groups in American society, the AFL-CIO and major individual unions maintain public-relations staffs in Washington. These staff people combine two functions: that of making labor's point of view known to the general public and that of lobbying with legislative and executive officials. The labor lobbyist, like lobbyists in general, performs a genuine informational function vis-à-vis government officials. The complexity of issues in today's world is so great that only the unusual official can be aware of all aspects and points of view on all public policies. Lobbyists marshal the arguments for and against any particular policy decisions, demonstrating to officials the constituent points of view that exist in our society. This function is

generally educational, particularly when all relevant points of view are represented in regard to a given issue.

The issues that are of concern to organized labor today are far broader than those affecting wages and working conditions directly. Labor is concerned with the whole range of domestic and international policies that affect Americans generally. Labor's legislative program goes far beyond that of Samuel Gompers' time and considerably beyond the particular causes of labor as a special interest group. Thus, the labor lobbyist speaks for many millions of people on an extremely wide range of issues.

The relation between lobbying and election participation can be stated as a general, if fairly obvious, rule. Recurrent failure to achieve desired policy and administrative goals through lobbying will direct any numerically large pressure group to use electoral means to make policy officials more responsive to it. As we have seen, throughout its history, labor has turned from lobbying to electoral activities whenever existing parties and officials seemed unresponsive to labor's needs and objectives.

This brings us, then, to the contemporary election activities of organized labor. Labor today brings three fundamental things to the election process: money, organization, and votes. Each of these requires separate discussion.

Money

Organized labor is able to extend its political influence outside of those areas in which it has a concentration of votes by offering pro-labor candidates a scarce but essential commodity—money. In the 1960 presidential election, for example, the AFL-CIO's COPE organization and individual unions contributed about 2 million dollars to the campaigns of favored candidates. In addition to this amount, which was contributed directly to candidates, perhaps an equal dollar volume of goods in kind—services, time and educational activities—was put into politics by labor. Although figures for the 1964 election year are not yet available, it is a reasonable assumption that organized labor's political contribution of cash and services will have approximated 5 million dollars.

Recurrent attempts have been made by Congress to limit la-

bor's political spending. In essence, the present state of our law is that organized labor may not contribute the dues money of its members directly as campaign contributions to candidates for office. Thus, unions have had to turn to collecting voluntary individual contributions in order to obtain the funds that they contribute directly to candidates.

The collection machinery for voluntary funds is cumbersome. Most unions are in charge of their own collections, but receipt books for each small contribution are sent from the national COPE to the various national and international unions. These receipt books then have to be distributed to the local unions where shop stewards take charge of collections in the plant. It has been found that the number of union members who refuse to contribute to COPE when asked is negligible. The number of members who are never asked, however, is enormous. The fact that labor is able to raise only about 2 million dollars from 17 million members demonstrates clearly the small fraction of labor's goal of one dollar per union member that has actually been achieved.

In addition to these so-called free funds which can be contributed directly to election campaigns, American law does permit spending of union-dues money for citizenship and educational purposes. Many of these expenditures go into newspaper advertising, and radio and television programs which support certain public policies and, thus, inferentially back candidates favored by labor. Moreover, labor can legally direct the time of full-time union officials to political activities during election years. This contribution of service is, of course, an indirect form of political spending.

In summary then, it can be seen that labor does make a substantial dollar contribution to politics. COPE contributes up to 25,000 dollars to individual senatorial campaigns and 10,000 dollars in races for the House of Representatives. Individual unions give additional large sums of free funds to candidates whom they favor. These amounts may be distributed in as many as thirty senatorial campaigns and a hundred or more House campaigns.

It should be noted, however, that the 2 million dollars that 17 million union members contribute directly to politics just about

equals the reported political contributions of about 900 officials of the nation's 225 largest business concerns. Moreover, the total value of the labor contribution of dollars and services to politics constitutes less than 5 per cent of the whole amount that is spent by all political parties in American election years.

Organization

One of the most fundamental contributions made by labor to politics is the sheer manpower that union workers can provide in an election campaign. It probably takes direct personal participation in politics to appreciate what this involves. It means attendance at frequent meetings; it means posting placards and handing out automobile bumper-strips; it means individual workers standing on street corners, collecting contributions and passing out campaign buttons and literature. "Getting out the vote" involves climbing endless flights of stairs, driving through heavy traffic, and pounding the pavements from one block to the next, performing the multitude of unglamorous tasks which are the lifeblood of American politics.

Perhaps as significant as any of these activities are the drives undertaken by labor to increase the number of registered voters in the American electorate. In both 1960 and 1964, COPE embarked on extensive registration drives in metropolitan areas in most of the fifty states. These efforts, financed by donations from each AFL-CIO union at the rate of five cents per member, yielded impressive results. In 1960 in St. Louis, for example, 407 unionists registered 85,000 new voters in one day. In the same year, labor registered 100,000 new voters in Spanish-speaking sections of California.

These registration drives are based on labor's conclusion that, at present, more Americans favor the Democratic than the Republican party. Therefore, registration drives conducted in middle- and lower-income areas will result in six or seven Democratic registrations out of every ten new registrants. One example of the results of these registration drives will suffice. Labor's efforts in 1960 in New Jersey increased registration by 227,000, primarily in industrial cities. John F. Kennedy carried New Jersey by only 22,000 votes. Such examples could be multi-

plied in fifteen or twenty other states to demonstrate that labor's registration drives were a substantial factor in the election of the Democratic nominee in 1960.

The Labor Vote

It is no secret that the leaders of organized labor in America largely favor the Democratic party and its candidates for public office. Most, though not all, of labor's money and aid goes to the campaigns of Democrats. It is also known that while a majority of union members are inclined toward the Democratic party, there remains a substantial number of union members who are adherents of the Republican party. This has led to much discussion, both by students of voting behavior and by organized labor's opponents.

One question that has frequently been raised is whether individual union members support the political activities of their union and its leaders. Such studies as are available indicate that about one-half the members support their union's political activities. Another 25 per cent are apathetic or uncommitted, and 25 per cent are opposed. Even in the case of the UAW, probably the most active politically of all American unions, 15 to 20 per cent of the members oppose its political activities and refuse to accept their union's recommendations when it comes to voting. Nevertheless, a majority of union members believe that their union is properly engaged in political activity. They generally support expenditures of dues money to inform the membership and the public about union views on policy issues.

A more interesting question that has frequently been debated is whether there is such a thing as a "labor vote." Ever since John L. Lewis failed in his effort to get CIO members to vote for Wendell Willkie in 1940, it has often been stated that the labor vote is a myth. This view was reinforced by labor's failure to defeat Senator Taft for re-election in 1950, despite massive efforts conducted throughout Ohio.

If by "labor vote" one means that unions control a large bloc of votes that can be swung to one party or another, it is quite true that such a vote is nonexistent. American labor unions have

never had this kind of influence over the voting behavior of their members. There is a kind of labor vote, however, demonstrated inferentially by the fact that many candidates for the presidency and for Congress desire union support. They do so because the labor vote, if properly understood, fundamentally affects the size of urban majorities for Democratic party candidates. Studies of American voting behavior show that in 1956, for example, labor-union members voted for Democratic party candidates 21 per cent more strongly than the rest of the country. What's more, union members voted 20 per cent more Democratic than other people of the same social characteristics—the same occupational status, race, religion, and so forth—who were not union members. These voter studies also show, however, that this Democratic margin was drawn primarily from among workers who had strong positive feelings toward their union, and that, in addition, their union took a strong pro-Democratic stand.

To put it in other terms, more than four-fifths of the workers who feel close identification with a militantly pro-Democratic union vote for Democratic party candidates. But if workers do not feel closely identified with their union, or if their union does not take a strong stand in favor of the Democratic party, the union member is at least as likely to vote Republican as Democrat.

Thus, the labor vote and labor's political power is a limited tool and can be used only in a restricted way. Through political action, labor can encourage more workers to vote—and to vote Democratic—than they might otherwise do. It cannot, as things now stand, effectively swing this same bloc of votes to the Republican party or to a third party. Labor's political influence is, therefore, almost wholly within the Democratic party in that it can increase or decrease the likelihood that Democrats will be elected. Since this is the source of its political bargaining power, the AFL-CIO's alliance with the Democratic party is firm. Organized labor's political efforts will be, in the main, directed toward support of Democrats in the foreseeable future. The influence of the labor movement within the Democratic party will fluctuate, however, depending upon the important of workers' votes to a Democratic victory in any given campaign.

WHAT OF THE FUTURE?

It is clear that at no time in the foreseeable future will the American labor movement attempt to form a labor party similar to those existing in many other industrialized democracies of the world. No prominent or responsible trade-union leader espouses such a course. Without exception, they realize that the structure of existing American politics—the fact that labor is still a minority group in this country, and the fact that union members are not a class-conscious group—would make any such attempt futile. Moreover, there is no important pressure for a labor third party at any point in American society. This is primarily because both parties, to a reasonable extent, particularly the Democratic party in labor's view, are responsive to the needs and aspirations of workers.

It is equally clear that, in the near future at least, organized labor's political objectives are bound up with the success or failure of the Democratic party. In 1964, the leadership of organized labor was united in support of President Johnson's bid for re-election to a greater extent than ever before in history. No labor leader of prominence supported the Republican candidate, Barry Goldwater. The overwhelming victory that President Johnson gained at the polls does have the effect, however, of reducing labor's political influence. If Johnson had been narrowly re-elected in a close election like that of 1960, labor's contribution to the victory would make its voice more prominent in Democratic party councils. As it is, the labor movement is merely one of the voices that must be considered when decisions on public policy are being made. It is true, of course, that there are more congressmen who are sympathetic to labor's cause in the present Congress than at any time since the mid-1930's. Thus the labor movement now anticipates favorable action on a number of causes that it espouses.

In conclusion, the current political role of American labor is as a pressure group which has taken on some of the vote-mobilizing functions of a political party. It is still a pressure group, but one which has, in part, transcended its traditional role. In areas of the country where organized workers are numerically large,

the labor movement has become a quasi-party adjunct to the Democratic party.

Labor also contributes to the increasing democratization of American society. It broadens the base of the electorate, informs those to whom it speaks about the major public policy problems of the times, and encourages workers to participate in politics. Each of these efforts tends to make the average citizen's participation in politics more meaningful and creative. Labor's voice is also one of the more prominent in the attempt to make the differences between the American parties more specific and to bring about a realignment, so that the two parties stand for more distinctive points of view.

The future of labor in American politics appears to be one of continuation of these contemporary tendencies, rather than any radical change in its political activities and orientation.

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ADA presents a unique blend of high principle, vigilance, and pragmatic action. Its singular effectiveness is due to the studied and precise policies which it supports, as well as political force and expert legislative thrust.

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Congress in 1965 enacted legislation for which ADA fought long and hard. The nation's new programs are based on decades of liberal thinking and work. Much ADA policy has become national policy. This can encourage us. But we cannot ignore the great flood of unresolved national problems. Sound U. S. policy five, ten and twenty years from now will be rooted in and grow from today's liberal thought.

Don Edwards

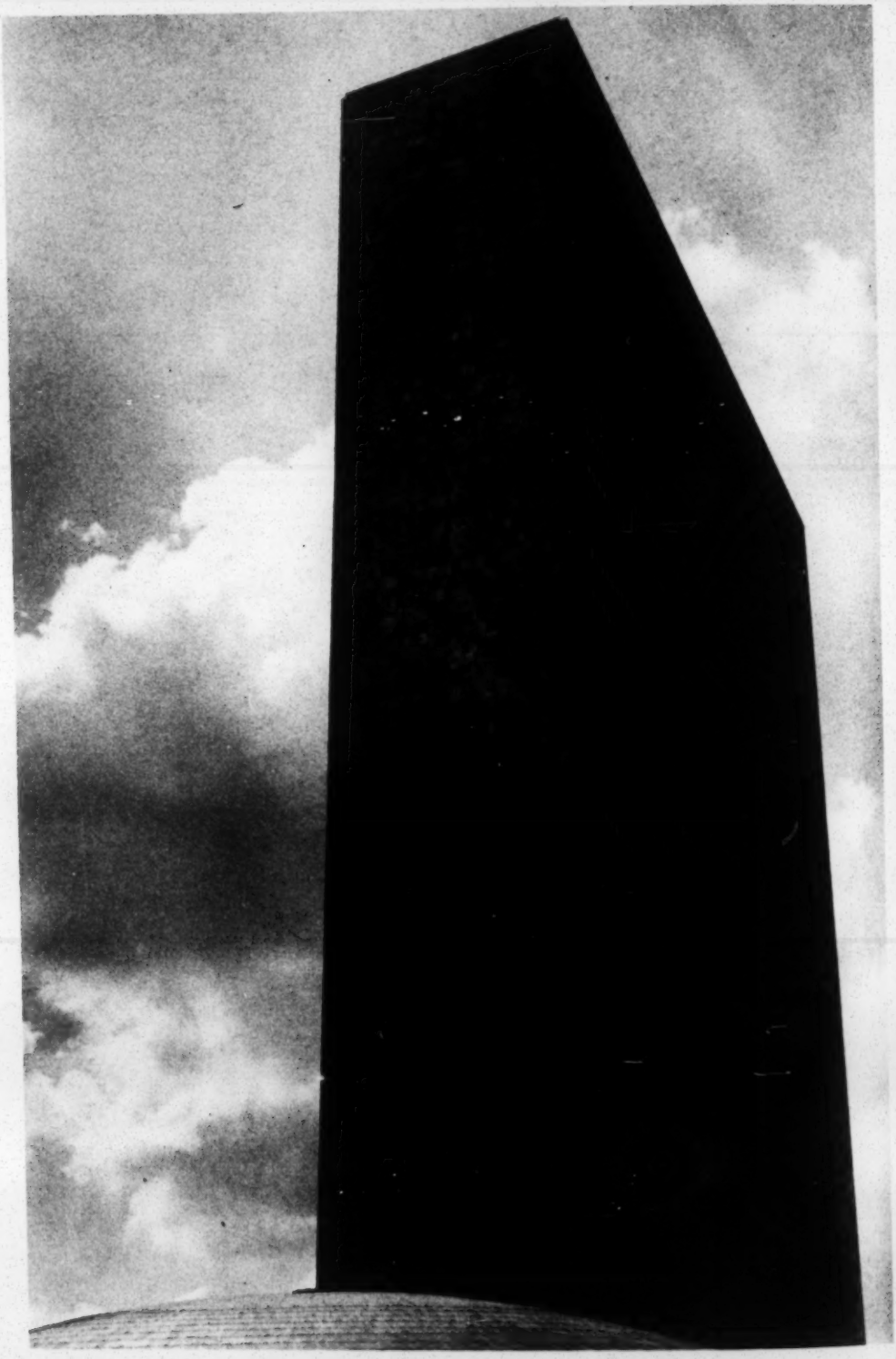
National Chairman

Liberalism is a demanding faith. It rests neither on dogma nor blueprint, but is a spirit which each generation of liberals must learn to apply to the needs of its own time.

Although it is neither a political party nor part of a political party, ADA endorses and works to elect candidates for public office. Its purpose is to stimulate thought and action in the American liberal tradition.

ADA policies are determined by the membership. Position papers originate in chapters or the minds of individual members or the four national commissions on *foreign, domestic, political,* and *state-and-local* concerns. Regardless of origin, papers are sent to the appropriate commissions. From commission they go with recommendations to the national convention for adoption, rejection, or modification. Occasionally proposals are referred for additional study. The 1966 convention voted to study in greater depth *selective service, campaign financing, social security, health, conservation and ecology, state government, rural America, American Indian problems, law enforcement.*

ADA rejects totalitarianism in any form, whether communist or fascist. Friends and apologists of totalitarianism have no place in our organization. We affirm values we share in common with conservatives—in particular, belief in constitutional processes and the rule of law. We welcome continued debate with conservatives as exemplifying the process by which a responsible democracy achieves social change. But we oppose conservative policy, particularly where, in preserving the status quo, it prevents responsible social action.



United Nations

Foreign Policy in

A SHRINKING WORLD

A creative foreign policy facing reality today will build a brighter tomorrow for all the world's peoples. Today's world presents both new challenges and new opportunities: the break-up of the old Communist monolith, the striving of almost all nations for just and lasting peace, the rise of nationalism and neutralism in the developing world, and an increase and proliferation of weapons for mass destruction yet to be brought under effective international control. Either we shall have increased prosperity, lasting peace, international order and harmony, or we shall have warfare, mass destruction, and abject poverty. Indiscriminate anti-Communism, uncritical belief in our righteousness and omnipotence, and faith in American unilateralism are no substitutes for grappling with the realities of the age. Any creative approach must forget old shibboleths and concentrate on developing a more peaceful, stable, prosperous, and *international* world.

We propose these goals for American foreign policy:
(1) encouragement of democracy and freedom throughout the world—while recognizing the right of each nation to chart its own destiny and its own interpretation of reform and progress;
(2) lasting peace in meaningful world order;
(3) a reversal of the proliferation, production, and stockpiling of weapons of mass destruction;
(4) maintenance of a strong and vigorous United Nations and establishment of effective and enforced world law;
(5) war on hunger and deprivation everywhere and

utilization of all means to encourage each nation to develop resources to the fullest;

(6) reduction of tensions through reduction of hostilities, development of greater bonds between nations, and the drawing into the community of nations those currently isolated by design or whim;

(7) interdependence for all nations through trade and aid, helping to break down barriers of isolation and mistrust.

Americans for Democratic Action urges the United States to adopt policies to reach these long-range goals. Only such policies can harness the greatness of this country to build a better world for all men.

Vietnam

The greatest obstacle to world peace and international cooperation is the continuing, intensifying, and destructive war in Vietnam. The war not only threatens to leave little future for the Vietnamese people, it threatens to embroil the entire world in a major war. The break-up of the Communist bloc and the impulse in almost all nations toward peaceful co-existence can be doomed by American intransigence which threatens to divide the world again into two armed camps.

We hope Vietnam will see the end of indiscriminate anti-communism as a pillar of American foreign policy. This policy places open-ended American resources at the disposal of right-wing governments whose only qualification is their overt anti-communism.

The United States has only a marginal national interest in Vietnam, at most a self-created interest. We reject unthinking application in Asia of our European containment policy and the false analogy of Munich. Our only objective in Vietnam should be to help secure for the people a free choice of government and way of life.

Only a hollow mockery of this objective will be attained if the war is protracted and becomes increas-

ingly destructive. The needs of the Vietnamese as well as the long-range interests of the United States will be better served by immediate peace than by continuing the war.

Only political settlement and not pursuit of military victory can terminate the war, and the settlement must be negotiated in the first place by the free participation of *all* Vietnamese groups and combatants. ADA therefore believes the United States must promote negotiations among all parties to the conflict. Obviously, the Viet Cong will never come to the conference table if they can expect only a demand for their unconditional surrender. Accordingly, we must hold out to them the prospect of a voice in the future political life of South Vietnam.

ADA urges the United States to take these steps:

(1) De-escalation. We call for termination of U.S. bombings in North Vietnam. The continuation of bombing is likely to solidify the people of North Vietnam and to make negotiation less likely. Moreover, as bombing along present lines fails to achieve desired results, pressure will rise for wider bombing of large population centers, of industrial complexes, of harbors, of the Chinese border. This, in our judgment, will make Hanoi dependent on Peking and, as we strike farther north, increase the risk of Chinese, or even Soviet, entry into the war. The United States should use every possible initiative, with due regard for the security of its forces, to de-escalate warfare in the South—particularly air and artillery bombing, napalm and defoliation bursts, other such measures which lead to excessive civilian displacement and suffering, and search-and-destroy operations.

(2) 1966 Free elections. The United States should assist in all possible ways the creation of a freely elected, broadly-based civilian government and give

every encouragement to that new civilian government to negotiate with all significant local groups, including the NLF, for the purpose of securing reciprocal de-escalation, a speedy cease-fire, and terms leading to preliminary settlement.

(3) An International Peace Conference. The United States should take the initiative in proposing an international conference to promote a peaceful and durable settlement and withdrawal of all foreign troops from Vietnam.

(4) Policy at such a conference. To achieve these aims, the United States should advocate self-determination for the people of South Vietnam through free elections under international supervision. The United States should accept participation in elections of all factions in South Vietnam, to discourage further resort to fighting. To further secure willingness of all factions in Vietnam to participate in elections and abide by their results, the United States should strive for creation of a provisional government acceptable to all Vietnamese parties represented at the peace conference. The provisional government would hold office from the cessation of hostilities through the elections.

(5) Long-range program for Southeast Asia. We favor neutralization under United Nations or other international guarantees of Cambodia, Laos, North Vietnam, and South Vietnam. We favor massive programs of economic and social assistance.

Even if the United States had a rational position towards negotiations and were proceeding to de-escalate, there is doubt as to whether Hanoi and Peking would come to the conference table. We urge Russia, India, Britain, and the rest of the world to press the United States to change its posture and to press Hanoi and Peking to agree to an early negotiated settlement.

Settlement of the war and new approaches to problems of Southeast Asia are not enough to guarantee peace and stability. The chief factor is mainland China, her policies and her isolation. China's recent development of nuclear capability requires radical re-orientation of American-Chinese policies.

China

Thus steps must be taken to begin trade with China, to wipe out restrictions on travel to and from China, and to put our diplomatic relations with China on a formalized basis. To end China's isolation, she must be brought within the community of nations and admitted with full standing to the United Nations.

Meanwhile the U.S. must maintain treaty commitments to the government of Taiwan—while it re-examines its relationship to Taiwan and while the people of Taiwan are given opportunity to determine their own destiny.

United Nations

The United Nations should develop a body of world law to insure peaceful settlement of disputes and eventual elimination of international armed conflicts.

Pending creation of a more favorable environment, the United States should pursue policies to meet, at least partially, urgent needs of the present:

(1) a U.N. Peace Force;

(2) a U.N. Peace Observation Corps recruited by and available to the Secretary-General;

(3) support for U.N. peacekeeping operations from the U.S. and other nuclear powers who can each commit a fraction of annual defense expenditures as evidence of sincerity;

(4) removal of the Connally reservation which clouds U.S. acceptance of the World Court's jurisdiction;

(5) ratification by the U.S. Senate of U.N. Conventions on genocide, slavery, forced labor, and political rights of women, and elimination of all forms of racial discrimination.

Europe

Establishment of effective world law is impossible so long as there are major differences among the great powers. Settlement of the outstanding issues of Europe is basic to a just and lasting peace.

The aim of American European policy should be a peaceful, stable Europe without national nuclear deterrents and an East-West detente including first steps toward general and complete disarmament. We favor a U.S.-supported non-aggression pact between NATO and the Warsaw Pact powers and increased economic cooperation between East and West Europe.

A solution to the German problem is a necessity for European stability. That solution will not emerge until all powers recognize present boundaries, including the Oder-Neisse line, and until East Germany is granted de facto recognition as a beginning of a settlement which may lead to speedier reunification of Germany.

ADA supports as part of an overall settlement of the German problem first a freeze and then disengagement of nuclear weapons in Central Europe—including at a minimum both Germanys, Poland, and Czechoslovakia.

But disengagement in Europe will not dissolve the danger in nuclear weaponry nor halt the spread that may well convert a minor border conflict into nuclear holocaust.

Disarmament and Non-Proliferation

Our aim must be general and complete disarmament, subject to effective inspection and control, negotiated on the basis of the following principles:

(1) All national armed forces and armaments must be reduced to levels agreed to be necessary for internal security. U.N. peacekeeping forces should guarantee international security.

(2) The elimination of conventional and nuclear armaments must be so phased that at no stage will any country or group of countries obtain a significant military advantage.

(3) In respect to each phase there should be established by agreement effective machinery of inspection, which should come into operation simultaneously with the phase of disarmament to which it relates.
(4) The principal military powers should continue and intensify direct negotiations without delay in close contact with the U.N. which is responsible for disarmament under its Charter.
(5) It must be recognized that no safeguards can provide 100 percent protection against error or treachery. For this reason it is necessary to build the capacity of the U.N. to enforce disarmament arrangements in step with the progress of disarmament measures. Any necessary risks in disarmament should be weighed against risks involved in the arms race.

More immediately, establishment of an effective nonproliferation treaty is of paramount concern. The major stumbling block has been American insistence on promoting some form of nuclear sharing in Europe. This has been opposed as proliferation by the Soviet bloc. We oppose and we urge the United States to abandon all proposals for nuclear sharing that would block the achievement of such a treaty.

Foreign Aid and Development

The gap between the handful of very rich and the large number of very poor people is steadily widening. Average per capita income in some countries is less than $120 a year. The United States should spend three times what it is presently spending in foreign aid. The sum should be not less than one percent of our gross national product.

Effective foreign aid can be planned only through long-term commitments and through entirely separating economic and social help from the military considerations of our military aid program. Massive multilateral programs to increase food output of all agricultural countries could begin to make supply meet demand.

With other nations or alone, the U.S. should invest a considerable amount in spreading techniques and devices of population control throughout the world.

Multilateral aid, through the United Nations and the World Bank, can promote international cooperation. Liberalization of trade policies can give incentives to developing nations to exploit their own natural resources. United States private investors should be encouraged to work in less developed countries.

We commend the efforts of the U.S. government to negotiate changes in the present world monetary system.

Africa

Aid and development are important tools toward realization of a more prosperous and democratic world. Yet all the aid the United States gives will come to naught unless the policies of the American government begin to relate to the new movements of nationalism and neutralism. In Africa these problems are particularly acute. Twenty million Africans still live under colonial or white supremacy rule. In Angola, Mozambique, and Portuguese Guinea, European colonialism still has a foothold. ADA urges that military support for Portugal be ended and that our diplomatic representatives do all in their power to push for self-determination for these colonies.

In the Republic of South Africa, South West Africa, and Rhodesia, racist white supremacy policies dominate indigenous governments. *ADA urges a complete embargo on the Smith government of Rhodesia and full economic sanctions against the Republic of South Africa.*

Latin America

In Latin America, we have seen disintegration of the Alliance for Progress. Unfortunately, many of the original goals of Alliance for Progress—economic development and political and social reform—have been discarded in favor of narrowly cold war aims. It is ADA's hope that the original aims of the Alliance will be followed and more rapid progress made in overcoming the

poverty and inequities that afflict the vast majority of the people in this hemisphere.

Dominican Republic

ADA condemns as outrageous United States intervention in the Dominican Republic in 1965. It was rash and morally repugnant. It violated OAS and U.N. treaty commitments. ADA urges the United States to right its wrongs by ending unilateral intervention in the hemisphere and through massive assistance to the Dominican people in development of a prosperous and democratic society.

Cuba

We believe the ultimate aim of our Cuban policy should be establishment of democratic liberties, and we do not believe that actions contrary to our international obligations under the OAS and U.N. Charters, or reckless sporadic raids upon Cuban territory or ships in Cuban waters, are proper or effective means of achieving this goal. We especially urge the United States to commit itself to support of a Cuban government dedicated to the democratic social and political aims implicit in the original Cuban revolution which Castro has betrayed.

ADA urges a resumption of trade in non-strategic goods with Cuba, in order to reduce the Cuban government's economic dependence on the Soviet Union. In addition, ADA urges lifting passport restrictions on travel to Cuba.

Kelly Hart

A Domestic Policy for

ONE HUNDRED NINETY-FIVE MILLION U. S. CITIZENS

ADA seeks a free, open, secure, serene and creative society. ADA is dedicated to achieving that society for all Americans now.

A *free* society assures everyone human and constitutional rights.

An *open* society assures everyone equal, untrammeled and self-fulfilling access to the economic, social, and cultural life of his community.

A *secure* society assures everyone a dignified standard of living under all circumstances.

A *serene* society assures everyone a tranquil and healthful environment free of man-made din, congestion, violence and invasions of privacy.

A *creative* society assures a restless and insatiable quest for new and better ways to improve the quality of life.

To achieve such a society, ADA is committed to—

- Equality before the law
- Intellectual and religious freedom
- Equality of opportunity for all, everywhere
- Full use of human and natural resources
- Abolition of poverty
- A guaranteed minimum family income based on decent wages for those who work and adequate social security, unemployment compensation, workmen's compensation and public assistance for those who either cannot work or cannot earn enough money to maintain a dignified standard of living
- Excellent education for every child

- Progressive and equitable revenue systems
- Enterprise which is competitive in fact
- Trade unions free to organize and bargain collectively
- Safe, clean, comfortable housing in pleasant neighborhoods uncontaminated by pollutants
- Adequate health services available to all
- Free discussion and regular re-evaluation of all concepts and programs.

National Economic Policy: Broadened and Expanded Services and a Guaranteed, Just Family Income

In the United States we now know how to end poverty and distribute our abundance fairly. No longer need we tolerate the intolerable: 34 million people living in absolute poverty and 47 million more living at unacceptable levels. We know now that poverty is not a sign of personal failure to be punished. We now see it as a disease of our society. For the badge of poverty—worn for life by millions—denotes an inherited status like slavery, and poverty, like slavery, is a restriction of freedom. The poor have few choices regarding where to live, what to eat, what callings to follow, how to amuse themselves.

The way to end poverty is to give poor people more money, preferably derived from productive jobs that pay wages, but more money at all events. *We now need a national commitment to provide every family with an income that would provide a decent standard of living.*

A minimum income—$4,000 for a family of four—should be guaranteed: if a family's income falls below a specified figure, the government supplements the income. As income rises, the supplement is reduced, but by less than a dollar in benefits for every dollar earned, and so the family enjoys an improved living standard at every increase in earned income.

Income Maintenance

Even in a fully employed economy, creating sufficient new jobs at adequate wages, many millions will be unable to work—the old, the ill, the handicapped. For

these individuals and families a vastly improved system of income maintenance is required.

Social Security

The *social security* program is at least ten years behind times, set against the rising price level and our immensely greater per capita wealth and productive power.

As a matter of right senior citizens should receive social security benefits which enable them to enjoy a modest but adequate standard of living. We must double benefits; finance the system out of general funds; lower retirement age; extend health coverage and make more equitable the financing of health benefits.

Unemployment Compensation

The state *unemployment compensation* systems are in shambles.

The law must require higher weekly benefits in each state. (By 1968 the required maximum should reach two-thirds of each state's average weekly wage.) Compensation must continue until the worker finds a job comparable in pay and classification to his old job. We must protect *all* employees. The taxable wage base must be adjusted to make it consistent with present day earnings. Arbitrary eligibility requirements must go—and *uniform*, reasonable penalties for disqualifying acts—such as a voluntary quit, discharge for misconduct, refusal of suitable work—be set. Experience rating should be eliminated.

Negative Income Tax

The *negative income tax* could be a useful supplement to minimum wage, unemployment insurance and social security. Taxpayers would be guaranteed a sum equal at least to the amount below which the Federal government would not impose any income tax.

Public Assistance

The *welfare system needs total revision* and ultimately the Federal government must fund it. Only the Federal government can establish the needed nationwide standards on eligibility and minimum standards on benefits.

Fair Labor Standards

The nation must improve incomes and living standards of the *working poor.*

Government studies have shown that a family wage earner works full time, all year around, in over one quarter of all poor families. The wage earner getting $1.25 per hour faces *guaranteed impoverishment.* Millions do not receive even this. All workers presently not protected by FLSA should be protected, and the minimum wage should be increased to $2.00 per hour.

Job Creation in Public Services

An expansionary fiscal policy can decrease unemployment substantially in the private sector. But it will not completely eliminate unemployment, and in any event it will not direct sufficient employment to the end-products we need most.

Creating jobs in the public services will alleviate unemployment. Even more important, additional manpower is essential to many Great Society programs. Health aides, teacher aides, welfare aides, gardeners, homemakers and visitors, police aides, recreation aides, code enforcement inspectors and many other aides and sub-professionals are going to be needed, full time. Such jobs mean new opportunities for many poor and unemployed. ADA supports a federally-financed 5-year program to create at least 5 million of these jobs.

O. E. O.

The Economic Opportunity Act is an essential arsenal in the war on poverty. Its funding should be tripled. And we fully appreciate merits of the community action concept—which is the heart of the Act. It must be continued.

Administration of the Economic Opportunity Act has too often undermined its bold purposes. We support "maximum feasible participation" by creating a triple partnership: (1) public agencies, (2) private agencies traditionally concerned with poverty, and (3) residents of the area—including especially the poor. Veto power of state governments and local governments must end. Em-

ployment in OEO programs should not be denied through too much emphasis on criminal records—sometimes symptoms of the very disease we are trying to cure. Poverty should be delineated by a $4,000 ceiling.

Budget Policy

The cornerstone of national economic policy must be attainment of permanent full employment and sustained economic growth. For liberals it is no victory merely to resist conservative and reactionary pressures in both parties to reduce spending. The need now is to accelerate. In any society there is ground which, if lost, can never be recaptured. Since the current level and direction of Federal spending is grossly inadequate to pay for our high-priority programs, we deplore the Administration's failure so far to expand our public investment.

The function of Federal spending is to meet needs not otherwise met. Only after these needs are met can tax policy rightly be determined. When the nation requires additional Federal outlays or restraints on significant inflation, then taxes should be increased, but only within the framework of long overdue personal and corporate tax reforms to eliminate inequities and up-date ability-to-pay standards. We can (1) repeal tax-amortization concessions to private investors, and (2) repeal corporate tax reductions, since funds for private investments are ample. If still further anti-inflationary restraints should be needed, personal income taxes should be increased, along highly progressive lines, concentrating on high and upper middle-income groups.

Planning

A full-scale war against poverty involves every aspect of economic policy. Fiscal and monetary, farm and social security policies—are all vital. We will not be engaged in full-scale war until all national policies and programs which should be directed toward this end are coordinated in a framework which includes the private sector and government agencies at all levels.

Housing and Metropolitan Areas

Metropolitan area development is intended to provide decent homes and a suitable living environment to everyone through urban amenities, good public services, and removal of any racial and economic barriers to general mobility. *All localities inside metropolitan areas must share in creating opportunities for all men.*

To meet new housing needs, more than 2.5 million starts must occur each year; about half are needed in low and low-middle income categories.

A significant part of any low cost construction should be outside the older central communities, and developers relying on FHA should be required to build about one-third of their houses for low income families.

Slum housing is profitable. To take the profit out of slums, we propose that the Internal Revenue Code be amended to preclude tax depreciation deductions on buildings in violation of local building and housing codes.

Low income public housing can now be provided on scattered sites, in private housing leased or purchased by a local authority, or in rehabilitated buildings; each of these methods should be used on a large scale. We urge an expansion of cooperative housing and the moderate income (221 (d)(3)) housing program and its widespread use in conjunction with rent supplements to provide for low income families. The rent supplement program should be funded to the full amount authorized in the Housing and Urban Development Act of 1965, and "workable program" restrictions should be removed to facilitate the use of the program in suburbs as well as central cities.

Renewal

The primary purpose of urban renewal should be to assist low income families to live decently in urban communities, but in fact it has greatly harmed many families forced to relocate. Federal policy must insist

that dislocated families be provided decent housing, at reasonable rents, within suitable environments.

Rehabilitation

ADA proposes that the Federal government develop subsidy and mortgage insurance programs for local governments and institutions working through URA and FHA for rehabilitation of housing for low and moderate income groups—programs comparable to those provided for new housing construction.

To speed construction at reasonable cost we urge increased Federal support for research and development in housing technology, as well as Federal and state action to modernize building codes and local control over housing and land developments.

Mass Transit

To widen choices for low income families, a mass transit system, accessible and cheap, is an absolute necessity, and a balanced transportation system is essential in every community.

Conservation

All land use should be subject to some level of government control; either for its conservation or for its use. We must halt misuse of our land, especially in the dense metropolitan areas and in the remnants of woods and open country nearby.

The production of gaseous, liquid and solid wastes is increasing dramatically as the standard of living in our urban, industrial, affluent society increases. Automotive exhausts must be curbed by federal regulation of emissions and by federal aid to enforce such regulation. The federal government should foster research on alternatives to combustion power for vehicles. Federal grants in aid should be made to state and local air pollution control agencies.

Our rivers and lakes can no longer absorb the waste loads imposed upon them. The Federal government should make substantial grants in aid for basin-wide and area-wide comprehensive pollution control and abatement programs.

Consumer Rights

We must have a centrally coordinated program to set safety standards for automobiles and automobile accessory manufacturing—standards to be enforced by relentless administrative and judicial procedures. Congress must expand the proposed Traffic Safety Act of 1966 so as to give the Federal government authority to insist that our technological know-how be applied *now* to the design of crash-worthy cars. States and localities must be given as much incentive to build *safe* highways as to build *new* highways.

ADA urges that Congress promptly enact (1) a truth-in-packaging bill to bar misleading or deceptive "information" in advertising and packaging and (2) a truth-in-lending measure to expose credit costs.

Education

American education must be drastically improved in philosophy, in quality, and in extent. A program of massive proportions is required.

1. We should establish national standards in elementary and secondary education.

2. School systems should move quickly to eliminate de facto segregation, using redistricting, open enrollment policies, bussing of students, educational parks, and student exchanges with nearby communities. Federal aid should be conditional on plans for eliminating de facto segregation.

3. The greatest share of additional financial support for schools must come from the federal government. Recent new programs of federal support have constituted significant steps, but far more is needed.

"Right-to-work" Repeal

The Congress should repeal Sec. 14(b) of the Taft-Hartley Act which allows states to pass so-called "right-to-work" laws. This provision has effectively hampered development of organized labor without granting any individual the right to work.

Farm and Migrant Laborers

An average income of $1,000 per year, inadequate and unsanitary housing, non-existent health care and a life of serfdom are the farm laborer's lot. We advocate enactment of a bill of rights for domestic farm laborers:

(a) minimum wage and maximum hour protection;
(b) the right to organize into unions and bargain collectively;
(c) a job recruitment and replacement program to protect farm laborers from deception and exploitation;
(d) workmen's compensation and accident insurance coverage;
(e) unemployment compensation protection;
(f) decent, safe, sanitary, and free family housing;
(g) free diagnostic, preventive and curative health protection.

Politics . . .

TOOL FOR LIBERALS

Fundamentally a political organization, ADA has both a principled and a selfish concern with political activity and civil liberties. While many ADA positions in domestic and foreign affairs are addressed to the wisdom of alternative policies on which men in a free society may differ, *we see political rights in absolute terms: rights which if not exercised, shared, protected and perfected do not exist.* Lose them, and we lose all else, too.

We oppose disenfranchisement everywhere—whether maintained by terror in Mississippi or by Congressional inaction in the District of Columbia or by narrow, discriminatory eligibility rules anywhere.

Civil Liberties

In defense of free speech, ADA has fought both those who would suppress civil liberties and those who would trade civil liberties for other gains. The threat today from those indifferent to liberty is as great as from ultra-rightists who would destroy it.

Special dangers arise from Vietnam war tensions. ADA has observed both government and private acts which limit liberty. The victims have been those who disagree with prevailing sentiment on Southeast Asian policy. Selective service status of students has been changed because of their participation in anti-draft demonstrations; Congressional committees have issued biased statements about the patriotism of dissenters; organizations are again being listed under terms of the McCarran Act—a statute ADA has long maintained is

unconstitutional and in conflict with basic principles of a free society.

Freedom To Travel, To Assemble, To Dissent

ADA calls for an end to these private and government restrictions on civil liberties. It calls for an end to the policy of drafting dissenters, restricting travel rights, curtailing the right of groups "peaceably to assemble." ADA calls for an end to government-stimulated pressures on elected public officials voicing criticism of government policy and an end to private and public incursions on employment opportunities for those who disagree with prevailing or official policies. ADA is opposed to restrictive passport policies and to surveillance of overseas travelers.

HUAC

ADA, since its earliest days, has been opposed to the House Un-American Activities Committee and the Senate Internal Security Subcommittee. We find that these committees, by their very existence, pose a threat to free speech and civil liberties. Their mandate is to investigate areas of speech and thought upon which Congress is constitutionally forbidden to legislate. Moreover, threats inherent have been proved real by the manner in which these committees operate. Exposure for exposure's sake has characterized the history of each. Armed with subpoena power, surrounded by an aura of officialdom, and offering an unrestricted forum for views of reactionary members, these committees have victimized many whose sole crime was disagreement with the committee members. The fact that some of the victims are Ku Klux Klan officials does not alter our judgment.

HUAC and the Senate Subcommittee have held "public trials" in which the accused has lacked even the most rudimentary due-process protections and often has been denied the right to present a defense. Public scorn has been the penalty meted out. We call for abolition of both these committees.

Obstacles to political freedom are not exclusively infringements of free speech. ADA worked to wipe out malapportionment of Congressional and legislative districts. We hailed decisions of the United States Supreme Court upholding enforceability of the one-man one-vote principle, and we resisted efforts to undermine this right by Constitutional amendment. ADA honors those —Senator Paul Douglas of Illinois, for example—who fought these attacks on our Constitutional right to equality in representation.

Apportionment

Just as we have achieved the principle of one-man one-vote in apportionment of state legislatures and congressional districts, this fundamental democratic principle should be applied to Presidential elections. We support a Constitutional amendment to provide for direct popular election of the President.

Direct Presidential Election

ADA favors continuation of two-year terms for members of the House but seeks complete overhaul of legislative machinery. Congressional reform is accomplished only in part; in state and local legislatures reform has barely begun. ADA is proud of its leadership in gaining significant rules reforms in the House of Representatives when the House adopted the 21-day rule and majority conference rule. These changes have prevented the House Rules Committee from burying liberal legislation. ADA will continue to work to preserve these rules changes and achieve additional reforms in both House and Senate.

Legislative Reform

The seniority system should be modified by allowing the majority party to elect committee chairmen.

In the Senate, while safeguarding provisions for adequate debate, 51 members of the Senate—a majority—should be able to terminate a filibuster. Such a rule would allow the majority to act on legislation that it supports.

Candidates Without Money

We are concerned, too, about limitations imposed on those who would run for public office but lack the money. We ask new laws to assist candidates of modest means. We favor changes in tax laws to encourage small contributions and more effective limits on contributions and expenditures. ADA also urges campaign costs be reduced by giving free mailing privileges to candidates; reducing utility charges; and permitting greater use of public buildings. Only by reducing costs and simultaneously limiting total contributions and expenditures can we reverse the disturbing trend towards a "means test" to run for public office.

Civil rights

Passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965—both strongly supported by ADA—represented major gains in the long struggle to abolish racial discrimination. Much more, however, must be done before equality is a fact in this land.

To this end, we urge a greatly increased staff and a much larger budget for the Civil Rights Division of the Justice Department. All federal agencies should conduct thorough educational programs among their employees to interpret and explain provisions of Title VI.

ADA calls upon the U.S. Office of Education to develop standards for school desegregation to insure immediate compliance in all school districts violating federal law. The Office of Education should not accept "freedom of choice" plans; there is no free choice for Negro parents and children, who face threats and harassment when they select a previously all-white school.

ADA calls upon Congress to enact comprehensive federal fair housing legislation, prohibiting discrimination and segregation in the sale and rental of *all* housing accommodations, public and private. An integral part of such legislation should be establishment of an administrative agency with the necessary authority, including power to investigate on its own initiative and to

issue cease-and-desist orders, and adequate staff and funds for effective implementation.

Voting Rights and Terror

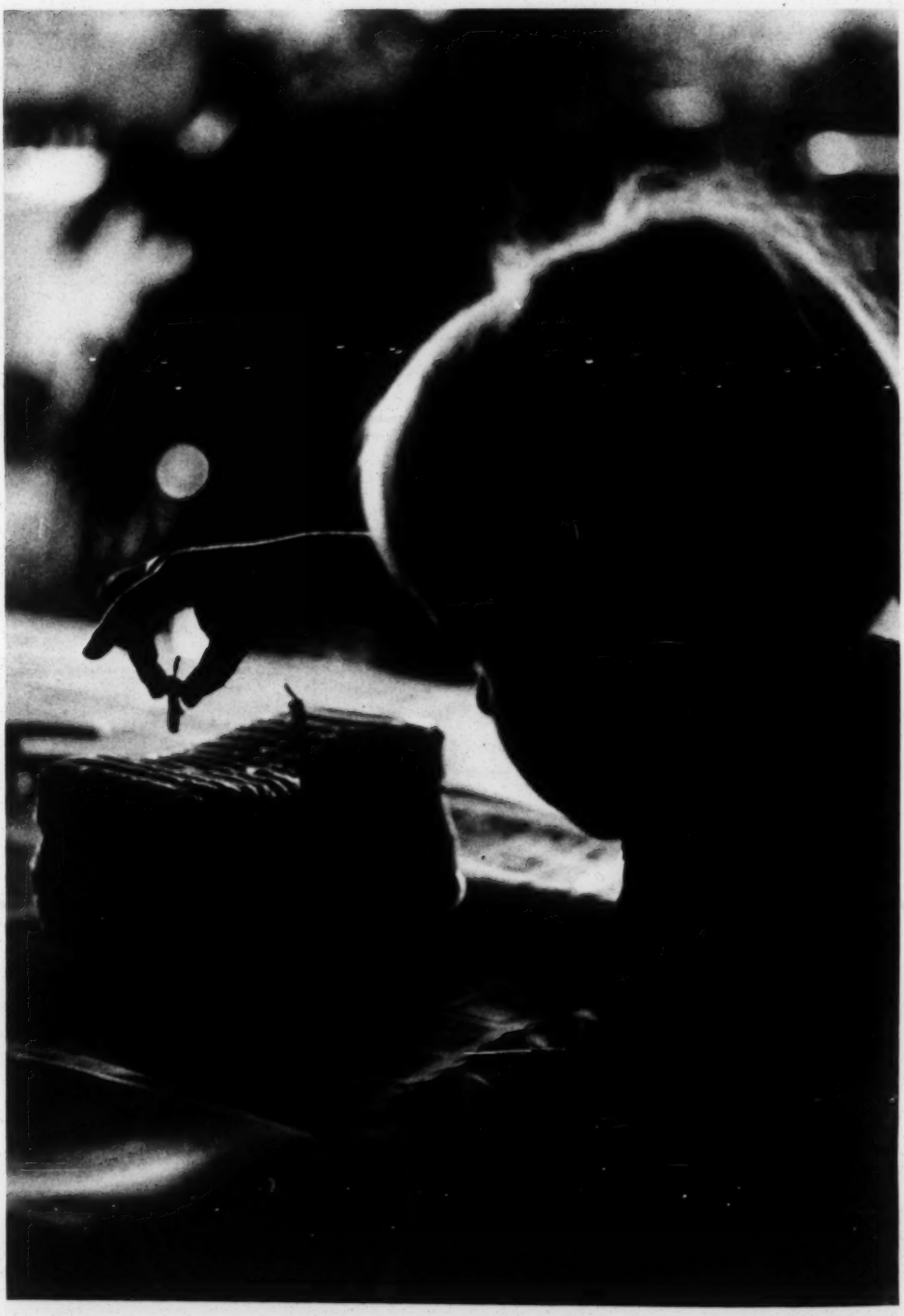
Enormous numbers of qualified voters are denied the elementary right to vote because of their color. This interference has come from both public and private sources. We demand far more vigorous enforcement of the Voting Rights Act of 1965. We call, too, for added protection for those working in the South to help Negroes. We support new federal laws to end oppression and terror against civil rights workers and Negroes. We call for an end to racist perversion of criminal law—aimed at protecting criminals who assault Negroes and rights workers and punishing those who work to effectuate voting rights.

ADA urges Congress to enact legislation establishing unavoidable requirements for non-discriminatory jury selection in federal and state courts and giving the Attorney General the power necessary to enforce these requirements.

ADA calls upon Congress to provide for trial of state crimes in federal courts in any state with a segregated system of justice. We support, as high priority legislation, federal indemnification for civil rights workers injured in their person or property in the line of civil rights duty.

Dems, GOP

ADA again calls upon both parties to deny participation to segregated delegations and to assure all citizens the right to participate in party work at all levels.



Jack Maschhoff

STATEHOUSE and CITY HALL

"Nothing happens in the education business," a city school superintendent said recently, "until it happens to a child."

Nothings happens in welfare or housing until it happens to a family. Urban renewal means little until it is applied to a city. Civil rights must be embodied in action.

ADA is concerned with many programs and policies which are finally realized—or denied—at local levels of government. ADA's most vital chapters are those that realize the importance of such a focus. The political process at the local level offers the individual ADA member his most meaningful and direct opportunity for participation.

The Family

Healthy families are basic to a healthy nation. Broken homes and homes burdened by unwanted children lead to juvenile delinquency, emotionally disturbed parents and children, poverty, other ills. ADA believes enlightened legislation uniformly adopted by states in the areas of abortion, birth control and divorce can substantially reduce these problems.

Present laws generally limit legal abortion to cases where the life of the mother is in danger. The American Law Institute has recommended extending legal abortion to situations in which: (1) the mental health of the woman is in jeopardy; (2) pregnancy is the result of rape or incest; or (3) there is evidence the child will be deformed.

ADA believes these recommendations can be the basis for legislation permitting abortion under medical

supervision not only for the reasons specified by the A.L.I. but for any other reason deemed sufficient by the pregnant woman.

In the area of birth control, states should abolish prohibitions against dissemination of information and devices necessary for family planning. Such information and devices should be readily available through public assistance, health and similar state and local programs.

Uniform divorce laws should be adopted so that residence requirements and grounds for divorce will be identical in every state. ADA believes such laws should include required marriage counseling, reasonable grounds for divorce, protection for children, and uniform standards for alimony and property settlements.

Public Welfare

Pending establishment of a guaranteed minimum annual income, ADA chapters should take positive action to improve existing assistance programs.

(1) Public welfare should be administered by state government rather than by municipal, county or township.

(2) States should take advantage of all federal health and welfare programs.

(3) States should take advantage of 1962 welfare amendments in the Social Security Act relating to health and welfare services, including (a) the AFDCU program, and (b) making casework and rehabilitative and other nonfinancial services available to potential and former recipients without regard to current financial need.

(4) Services should be extended on the basis of established need without reference to length of residence.

(5) State public assistance programs should institute the following improvements:

(a) No state shall deny or reduce benefits except when assets or income exceed a minimum figure.

(b) States should eliminate liens on property and repeal laws requiring contributions from relatives

(other than a spouse or parents of minor children) or from funds minors may subsequently acquire.

(c) Standards for permissible earnings of welfare recipients should be liberalized to encourage and not penalize employment.

(d) Reasons for ineligibility should be explained to an applicant and he must be informed of his right to appeal and procedures for appealing the decision. Likewise, reasons for any reduction, suspension or withdrawal of a grant must be explained to the recipient.

(e) The means test should be simplified. This could be accomplished by computing payments on the basis of family size and composition; accepting declarations of family circumstances and resources in place of humiliating investigation; using mailed questionnaires in place of periodic home visits to verify eligibility.

Law Enforcement

The glaring inadequacies of local law enforcement have been repeatedly, shamefully demonstrated. Structures should be examined to determine feasibility of consolidating local departments. Salaries, working conditions, recruitment standards, and in-service training programs need improvement in most communities.

A major problem is lack of understanding between police departments and individual citizens. We endorse establishment of independent, civilian boards to review citizen complaints against the police. We oppose relaxation of historic and constitutional restraints on police powers of arrest, search, and interrogation.

Legicare

Adequate legal counsel is as important as medical treatment in the well-being of citizens. ADA calls for the establishment of state-supported legal aid offices.

Consumers

Current plans for federal consumer legislation fail to correct basic problems. The majority of consumer transactions are regulated by state law. We urge state

(1) truth-in lending laws; (2) supervision of lending agencies; (3) consumer councils with broad powers.

State Revenue

As state governments become more representative and responsive they will need greatly increased revenues. Where states have failed to develop broadly-based tax systems, state services are inadequate and burdens are pushed onto local governments whose limited fiscal resources are strained.

These policies should guide ADA chapters:

—High standards for state and local services.

—Progressive personal income taxes and corporate income taxes—the most equitable and productive forms of state taxation.

—A state sales tax—exempting food, rent and medicine—is much less desirable than an income tax but preferable to starving state and local services.

Because the federal income tax is the most equitable and productive of all revenue sources, ADA supports the principle of expanding the flow-back of federal revenues to states, based on a formula to establish minimum levels for state and local government services. To further encourage state responsibility, we support proposals to grant partial federal tax credits for state income taxes.

State Constitutions

Many state constitutions in this country were drafted in the 19th century and designed for an economy and a social milieu which have long since passed.

ADA chapters in study of their state constitutions are encouraged to pay attention to the amendatory article. In some instances, a thorough-going revision by constitutional convention will be necessary; in others, carefully conceived amendments may suffice.

ADA chapters should be concerned especially with apportionment and reapportionment and local self-rule.

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Politics — Unions
(Sociology of)

INSTITUTE OF INDUSTRIAL RELATIONS

CLASS, CLASS CONSCIOUSNESS, AND AMERICAN WORKERS

by

HAROLD L. WILENSKY

Reprint No. 283

Reprinted from *Labor in a Changing America*
Edited by William Haber
© 1966 by Basic Books, Inc.
Revision of a "Voice of America" broadcast
May 31, 1965

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2 CLASS, CLASS CONSCIOUSNESS, AND AMERICAN WORKERS

Harold L. Wilensky

For centuries, social critics and social scientists have given us the images with which we construct our picture of the world. Among the concepts that have done the most to mislead us in our search for an understanding of social reality are "class" and "class consciousness." European students of labor—*théoricien et militant* alike—take for granted the utility of such ideas. In America, academic journals and the press are filled with references to the "middle class" or "working class"; discussions of the affluent worker becoming "middle class" are commonplace. And the constitutions of many American unions only yesterday contained the ringing slogans of class warfare.

This rhetoric—whether it is tolerated by nostalgic exsocialists who head a few modern labor unions or whether it is taken more seriously, as in popular discussions of the affluent worker—obscures more than it reveals of the shape of American society. I should like to ask "Where do the ideas of class and class consciousness fit the situation of American labor well, and where do such ideas fit badly?" I shall argue that, in the United States and in other rich countries, class consciousness among manual workers is a transitional phenomenon—characterizing workers not yet accustomed to the modern metropolis and the modern work place; that a clearly defined working class no longer exists, if it ever did; that much behavior and many attitudes said to be rooted in class are instead a matter of race, religion, ethnic origin, education, age, and stage in the family life cycle. Indeed, almost any of these traditional groupings of the population display more

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homogeneity of behavior and belief than "labor," if by the latter term we mean all manual workers or even all union members.

Finally, if we want to use economic classifications that yield uniformity in ideology or mentality, we must turn to such categories as "small entrepreneur" (a small part of the lower middle class) or to particular crafts (a small part of the upper working class) and to the established professions (a minority of the upper middle class). Insofar as class categories remain at all useful, the line that divides stably employed, well-educated, well-paid workers from the lower class is becoming more important than the split between upper working class and lower middle class. Whether we are witnessing the *embourgeoisement* of the workers or the sinking of the middle class into the proletariat, the top of one and the bottom of the other seem to form a new middle mass, a population that increasingly shares common values, beliefs, and tastes. And the process goes on in every rich country.

In general, I hope that all this will add up to a more realistic picture of the position, prospects, and mentality of that minority of the urban labor force that we customarily label "manual worker" or "working class" and its relation to other classes.

THE IDEA OF SOCIAL CLASS

All students of stratification are concerned with the distribution of rewards in society—who gets whatever is valued and why. They are also interested in the effect of the distribution of rewards on human behavior.[1] But there is no agreement about

[1] The necessity of specialization—universal differences in role based on sex, age, work, and authority—leads everywhere to social stratification. People classify one another in categories and place these categories above or below one another on a scale of superiority and inferiority. The criteria of ranking vary; anything valued and unequally distributed may suffice: wealth, power, magic, women, and so on. Despite the recurrent dream of absolute equality—for example, the "classless society"—every society past or present has had some system of stratification. Distinctions are made. Some positions are honored, others not. Some are accorded more authority than others. Who is and who is not honored—the priest, the workman, the scholar, or the warrior; the distance between top and bottom positions—the difference between rich and poor, leader and rank-and-file; these and other features of stratification systems vary from place to place, time to time. But power and prestige differences do appear everywhere. Among the reasons are these: (1) Any society

what rewards shared by what strata and what positions held in what groups are significant in explaining social structure and change; for instance, how we decide whether a man is a member of the working class or whether the working class is becoming middle class.

Karl Marx's definition of class, although imprecise, tends to emphasize not sources of income (wages, profit, rent), not amount of income, not type of occupation, but what he called "the relations of production"—that is, *authority relations rooted in the distribution of property rights,* political power anchored in economic power.[2] Individuals form a class only insofar as they are locked in political combat with another class. Marxist discussion of "class consciousness" has since followed this line, emphasizing three criteria. In the Marxian view, a man is said to be class conscious when he is (1) rationally aware of his own class interests and identifies with them; (2) aware of other class interests and rejects them as illegitimate; and (3) aware of and ready to use collective political means to realize his class interests.[3]

In this Marxian sense, is American labor class conscious?

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has to distribute people among its different positions and induce them to perform essential duties. (2) Every society has a hierarchy of values based on the fact of scarcity. (3) Differences in the distribution of these values (for example, income, power) move people to go after positions and to perform once they are in them. (4) As long as the family has anything to do with bringing up children and as long as some of the behavior and possessions unequally valued and unequally distributed are learned or acquired in the family, then some inequality will be perpetuated. (5) The various criteria of stratification are related—power differences among men are universal; those with power can use it to obtain for themselves and their kin those things which are valued (a man of power can use connections to get his son a good job; a man of wealth can buy his son a good education). Cf. K. Davis and Wilburt E. Moore, "Some Principles of Stratification," *American Sociological Review, X* (1945), 242–249.

[2] For the best recent discussion of Marx's theory of class, see Ralf Dahrendorf, *Class and Class Conflict in Industrial Society* (Stanford: Stanford University Press, 1959), Chapter 1. The task of evaluating Marx is beyond the scope of the present essay. Note, however, that by Marx's own definition of class, the abolition of private ownership of the means of production cannot lead to the "classless society" because authority is obviously neither tied to the legal title of property nor confined to the industrial sphere. For a balanced summary of sociological critiques of Marx, see *ibid.*, Chapter 4.

[3] C. Wright Mills, *White Collar* (New York: Oxford University Press, 1951), Chapter 15.

MARXIAN CLASS CONSCIOUSNESS IN AMERICAN LABOR HISTORY

Surely, for brief episodes, during our most rapid industrialization, American labor displayed a militancy that fits the Marxian model and that has its contemporary counterpart in the labor movements of less developed countries. In the last quarter of the nineteenth century, American labor protest was intermittently tame and violent, economic and political; labor organizations were unsteady, easily diverted to elaborate political programs (from greenbackism to the single tax, from revolutionary anarchism to Marxian socialism, from Owen's "estate guardianship" to producers' and consumers' cooperation). Obstinate employers used private armies; the courts declared unions to be criminal conspiracies (until use of the injunction in the late nineteenth century gave them a better weapon); and the government broke strikes by use of local, state, and federal troops. In the 1880's, especially during and just after the depression of 1884–1885, labor protest began to sweep the land. Skilled and unskilled, women and men, native and foreign-born—never before (and not again until the 1930's) had American labor displayed such a drive to organize.

The peak of immigration was reached that decade, and streams of newcomers caught the enthusiasm. "Labor organizations assumed the nature of a real class movement. . . . General strikes, sympathetic strikes . . . nationwide political movements became the order of the day.[4] Employer associations quickly counteracted with lockouts, blacklists, armed guards, and detectives. When the wave of strikes failed, a consumer-boycott movement of epidemic proportions got under way. This was a time of great upheaval, when the Knights of Labor, an inclusive labor organization espousing the ideal of producers' cooperation, spearheaded a mid-eighties mass movement culminating in an unsuccessful nationwide strike for the eight-hour day. It was the time, too, of the famous bomb explosion on Haymarket Square, which touched off a period of hysteria and police terror in Chicago and resulted

[4] Selig Perlman, *A History of Trade Unionism in the United States* (New York: Macmillan, 1928), p. 84.

in the unjust conviction and execution of innocent men.[5] The strength of employer opposition and the unwieldiness of the Knights' own organization threw the labor movement into decline.

As the movement broke up, the American Federation of Labor (AFL) was established to organize workers on straight trade-union lines, for better wages, hours, and working conditions through collective bargaining—foreshadowing the form in which labor protest was to be cast during the next century. The last gasp of nineteenth-century working-class militancy came in the form of the Homestead strike of 1892 (which involved a violent battle between an army of three hundred Pinkerton detectives hired by Andrew Carnegie and armed strikers, including women and boys, who were finally overcome by the militia) and the great Pullman strike of 1894, which was broken with the aid of federal troops, a federal injunction, and the imprisonment of its leaders.

This enormous thrust upward from the people of poverty and low status was again repeated in the early days of Franklin Roosevelt's New Deal and provoked much the same militant fear on the part of the wealthy and well-born. In the 1930's, with almost revolutionary fervor, autoworkers in Flint, Michigan, seized control of corporate property in the famous sit-down strikes.

Marxian class consciousness? Yes, sporadic, loosely organized, and, as America had grown richer, fading into memory. Today, some of those sit-down strikers—or their sons—peacefully negotiate contracts with employers, serve on community welfare council boards, run for municipal office (and occasionally win), and live the modestly comfortable middle-class life of trade-union officials. The spontaneous protest movements of yesterday have become the "business unions" of today—large stable organizations sanctioned by contracts and the law. American labor today has limited goals: better wages, shorter hours, and improved conditions of employment. Its means are mainly economic: the establishment of collective-bargaining agreements enforced in part by arbitration of grievances. Occasional legal strikes over

[5] *Ibid.*, pp. 68–105; and Charles A. Beard and Mary R. Beard, *The Rise of American Civilization* (New York: Macmillan, 1933), II, 220 ff., 73.

the terms of the agreement occur, but these have become the accepted alternative to massive state control of labor relations. A decreasing proportion of union members and of the total labor force is now drawn into strikes. The strike weapon, though not obsolete, has been blunted.

Similarly, in politics, the period of early industrialization saw many efforts to base political parties on distinctive working-class interests and membership. But, in recent decades, American labor has taken its place in the coalition of interest groups that dominates the Democratic party nationally and in the machinery of both major parties at local levels.

ATTITUDES TOWARD CLASS TODAY

The theme that class consciousness in American labor has dwindled is consistent with what we know of the attitudes of the American population toward social class and class conflict. Keeping in view the Marxian sense of class consciousness, what can we say about awareness of classes? Surveys using a variety of questions, leading and neutral, fixed and open-ended, indicate that most Americans think that classes exist, but there is little agreement about their nature and number, and there is great variation in how people on the same income and occupational level identify themselves.

In such research, the pitfalls are many and the results not very gratifying. There is the well-known problem that phrasing affects response: the researcher gets what he asks for. Thus, if you suggest that "Some people say that there are social classes in the U.S.A. They call them lower, middle, and upper social classes," and then ask, "Which would you put yourself in?", the vast majority will choose the comfortable "middle." Add "working class" as one of your alternatives and a third to half of these "middle class" identifiers will switch to "working class." Leave the matter open—"What social classes do you think there are [in this city]" and "which one of them are you in?"—and as many as half the population will either deny the existence of classes or in some way indicate that the idea is meaningless.[6]

[6] Cf. Richard Centers. *The Psychology of Social Class* (Princeton: Princeton University Press, 1949), and Joseph A. Kahl, *The American Class Structure* (New York: Rinehart, 1957), Chapter 6. Using four census tracts in

If you now confine yourself to those who think that classes exist and ask them for the number and characteristics of the classes, you will tap a great range of rather vague ideas. Few Americans see labor and capital as the classes; few see them at war. Various groups and strata emphasize various criteria of ranking—the value of material possessions (house, furniture, cars, clothing), type of job or job opportunities, amount of education, income or economic security (the lower strata emphasize this more), refinement of taste and manners (college people sometimes em-

Minneapolis representing four rental levels, Gross asked 935 subjects all three questions described above. Here is a comparison of percentages using one or another label by form of question, along with results from other studies using roughly comparable questions

	Form of Question and Sample						
Percentage saying:	UML Minneapolis*	UMWL Minneapolis*	UMWL U.S.A.†	UMWL U.S.A.‡	Open Minneapolis*	Open U.S.A.§	Open Tallahassee‖
Upper	5	2	3	4	1	3	2
Middle	76	42	43	36	31	47	43
White-Collar	—	—	—	—	—	—	3
Working	—	45	51	52	11	11	6
Lower	10	3	1	5	3	4	2
No classes	2	1	1	—	14	—	25
Don't Know	4	2	1	3	20	28	—
Other classes	3	5	—	—	15	8	9
No Response	—	—	—	—	5	—	10
TOTAL	100	100	100	100	100	100	100
	(935)	(935)	(1,097)	(1,337)	(935)	(5,217)#	(320)

* Neal Gross, "Social Class Identification in the Urban Community," *American Sociological Review*, XVIII (1953), 398–404. Four census tracts chosen to represent four rental levels.

† Richard Centers, *op. cit.*, p. 77. Centers reports on two national samples. These samples were cross sections of white males. These are the results which Centers obtained in his sample of July 1945.

‡ *Ibid.*, p. 77. This is Centers' cross section of February 1946.

§ "The People of the U.S.—A Self Portrait," *Fortune*, XXI (1940), 14. A national cross-section quota sample.

‖ John L. Haer, "An Empirical Study of Social Class Awareness," *Social Forces*, XXXVI (1957), 117–121. Area probability sample.

Total, not reported in the *Fortune* article, is cited in Haer, *op. cit.*, p. 119.

phasize this), "morals" (the thrift-spendthrift theme is strong here among some members of the lower middle class), or social origins. The number of classes named is similarly variable.

Finally, the context of questioning and the area of life covered by the questions affect criteria for the definition of the classes. If you go to a man in the evening and ask about the neighbors, he will think about status symbols and styles of life—consumption, house, car, leisure uses; if you talk to him on the job and ask about the people there, he will think of authority—the authority of bosses, of skill and expertise.[7] The average American is a Veblenian at home, a modified Marxist at work.

In assessing class consciousness in American labor, it is perhaps more important to examine the types of people who label themselves upper, middle, or working class. By any objective measure, there is considerable cross-class identification. About a fifth of all manual workers call themselves middle class; more than a fifth of all professional, business, and white-collar people identify as working class.[8] The clearest and most consistent awareness of class is at the top; a hard core of business, professional, and technical people plus some of the clerical and sales people call themselves middle class no matter how you ask the question. Among workers, the more skilled are the most class conscious—consistent with the fact that labor organization emerged first among employees in a strategic market or technical position (printers, locomotive engineers, cutters in the garment industry).

What about the rejection of other class interests as illegitimate and the willingness to act out such sentiments politically? The few recent American studies that have looked for this evidence of class consciousness have turned up precious little of it. For instance, a sample of white men in Philadelphia, half Protestant, half Catholic, was asked in 1953: "To which one of these groups do you feel you owe your allegiance—business or labor?" They were also asked whether they agreed or disagreed with six policy statements, three taken from the CIO, three from the NAM. To

[7] Cf. Kahl, *op. cit.*, p. 86.

[8] *Ibid.*, pp. 161–162. In my study of the Detroit area, about two in five of the white men in the upper working class (defined by income and occupation) aged 21–55 identify as middle class given the four choices; even one in four of the men on relief say that they are middle class.

be scored class conscious, a man had to choose sides, agree with all his side's policy statements, and disagree with the others. By this measure, only minorities of every group were class conscious: 40 per cent of the big businessmen in the sample, 25 per cent of the small businessmen, 28 per cent of unionized workers, and only 13 per cent of nonunionized workers. On the allegiance question, more union workers were neutral than were pro-labor.[9]

A similar study of unionized textile workers in Paterson, New Jersey, a highly industrialized city with a long history of industrial conflict, showed similar results. "How do classes get along?", these workers were asked. "In general are they like enemies, or like equal partners, or like leaders and followers?"

TABLE 2–1. *Attitudes about Class Relations among Ninety-five Textile Workers in Paterson, New Jersey (including multiple answers)*

Paternalism	27
Enemies	21
Partnership	19
Snobbish or jealous	12
Vague	8
Don't Know	14

As Table 2–1 suggests, the most common responses to this and similar questions reflect more a pattern of paternalism than one of class warfare. One worker said, "If the bosses would treat the working people right, they would get along all the time. It's like a dog with a bone. If you give him food, he will be all right. Just treat us right and we'll follow right along." Another expressed his general approval of the class system in this most un-Marxian way: "The people who have money own businesses, and the rest of the people work for them. If there were no rich people, who would the poor people work for?" Twenty-eight per cent expressed such paternalistic views. One in five saw

[9] Oscar Glantz, "Class Consciousness and Political Solidarity," *American Sociological Review*, XXIII (1958), 375–383. The sample of 201 Protestants and 199 Catholics was a multistage sample of households, stratified and purposive at the first stage (precincts of varying occupational and religious composition), and random, with different probabilities, at the second stage.

classes as partners, about one in five, as enemies. Over one in three held some other view, mostly vague. Most of these unionists felt that the class system was both inevitable and desirable. And although one in three thought that the system was becoming more rigid, half thought that it was becoming more open, especially for the next generation.[10]

The most intensive recent survey of the political expression of working-class consciousness was carried out among 375 blue-collar men in Detroit. If we are to uncover Marxian class consciousness anywhere, it would be in this study.[11] The sample was chosen from seven ethnically homogeneous neighborhoods: one of them northwest European, three mainly Negro, three Polish—generally overrepresenting the economically deprived and uprooted. They were interviewed when severe unemployment was a fresh memory—down from a recession peak of 20 per cent of the labor force in 1957–1958 to 6 per cent at the time of the interview in 1960. All but 10 per cent used class imagery in response to at least one of eight unstructured questions designed to elicit spontaneous expressions of class symbolism (who was his favorite president and why, etc.). The closer one pushed these men to a Marxian model, however, the smaller the fraction that one could call class conscious. From mere class verbalization, characterizing 26 per cent of the sample, the measure moved toward militancy as follows: (1) "When business booms in Detroit, who gets the profits?" Answers such as "rich people" or "big business" were considered indicators of moderate "skepticism" and covered 30 per cent. (2) Favoring a statement about picketing a landlord was scored "militant radicalism"; 23 per cent went this far. (3) Agreeing with the statement that the wealth of our country should be divided up equally so that people would

[10] Jerome Manis and Bernard Meltzer, "Attitudes of Textile Workers to Class Structure," *American Journal of Sociology*, LX (1954), 30–35. The sample: 200 randomly-selected members of the TWUA–CIO in Paterson, New Jersey. Ninety-five men were interviewed, including sixty-seven operatives, nineteen craftsmen, and nine laborers. Median age: fifty. Median residence in Paterson: forty years.

[11] John C. Leggett, "Uprootedness and Working-Class Consciousness," *American Journal of Sociology*, LXVIII (1963), 682–692. Cf. Alfred W. Jones, *Life, Liberty, and Property* (New York: J. B. Lippincott, 1941), a sophisticated study of attitudes among Akron residents on such issues as the sit-down strikes of 1936.

have an equal chance to get ahead counted as militant egalitarianism. Only 10 per cent would go all the way, the same tiny fraction that failed to verbalize in class terms at all.

Do class attitudes affect a man's politics? Do class-conscious union members, however few, act out their militancy?

THE LABOR VOTE

During the presidential campaign of 1948, when President Truman was running for office, I had an opportunity to study political action in a local union of the autoworkers in southeast Chicago. A local officer recounted an incident in a plant across the street that was discussed during the campaign by members of his local. He was telling me about the union shop, not politics, and he said he would give me an example of how important it was "from the standpoint of discipline" that workers be pro-union:

> There was a guy over there who was bitterly against Roosevelt. . . . Then Roosevelt died and the boys in the shop felt pretty bad. They decided that they would have three minutes' silence on the day Roosevelt was buried. Well, this old guy had it all figured out ahead of time. When the bell rang all the fellows stood up at their machines in absolute quiet. . . . And then this old geezer began to . . . make as much noise as he could. . . . The funny thing is that [the workers] didn't do a thing. They just turned away from him and wouldn't even speak to him afterwards. . . . They came over to the union and the first thing was they insisted that he be thrown out of the union or at least suspended for a couple of months. We had a big meeting about that and I told the boys that that wasn't a real punishment, that the agony of having to work with the men would be a lot worse than having a leave of absence. I told them that they should fine him and make him keep on working. So that's what they did. They fined him $100 and the money went for a fund to build a statue of Franklin Roosevelt . . . [When he came to the local meeting to pay the fine, he] stood right up there in front of all his fellow workers and he said that he had been wrong and that he was sorry. . . . It took a lot of courage to admit that he was wrong. That made a terrific difference. You have no idea. He's made a good union man.

The Democratic New Deal tradition was still strong among the union activists in 1948 and—as in the case of the story—they slid easily from problems of discipline on strictly union matters to problems of discipline on strictly political matters. The president of Local 166, one member commented, "can't get it through his head that a guy can be Republican and still be for the union."[12]

For a quarter of a century, studies of voting and political orientation have shown that American labor unions have, with their emphasis on issues rather than man or party, solidified the political direction of those exposed to their influence, helping to keep their active members in the old New Deal–Fair Deal coalition, now revived in President Johnson's "Great Society." The years 1944–1952 saw the emergence of a new postwar, post-Roosevelt political generation—a loosening of the ties that bind ethnic Catholics to the urban Democratic machines[13] and a breakup of the lower-middle-class–working-class coalition that formed the basis of Democratic strength for two decades. There is some evidence that, nationally, the lower half of the working class, including the Negro minority, had politically significant elements that were becoming alienated from both the Democratic party and the political process.[14] For the minority involved directly with unions, however, the old ties to the liberal–labor wing of

[12] Harold L. Wilensky, "The Labor Vote: A Local Union's Impact on the Political Conduct of Its Members," *Social Forces*, XXXV (1956), 114. The following discussion of the labor vote is drawn from this article, which also assesses evidence on political behavior of union members and activists up to 1956.

[13] Samuel Lubell, *The Future of American Politics* (New York: Harper, 1951) and Seymour M. Lipset, *et al.*, "The Psychology of Voting," in *Handbook of Social Psychology*, Ed. Gardner Lindzey (Cambridge, Mass.: Addison–Wesley, 1954), II.

[14] An analysis by Morris Janowitz and Dwaine Marvick of the Survey Research Center data on the 1952 election campaign shows that nonvoting among lower-lowers (defined by income and occupation) reached 45 per cent, and those who voted gave Stevenson only a 5 per cent plurality. Catholics as a whole gave Stevenson a similarly small plurality. Like the farmers, the lower middle class made major shifts to Eisenhower. *Competitive Pressure and Democratic Consent* (University of Michigan, Institute of Public Administration, 1956). President Johnson's even more overwhelming victory over Barry Goldwater in 1964 similarly cut across class lines; every bloc of voters moved to the Democrats because of fear of extremism in domestic affairs and recklessness in foreign affairs.

the Democratic party remained strong. From 1936 to 1952, comparisons between the candidate and/or party preferences and participation of union and nonunion voters on roughly the same socioeconomic level consistently show that the union voters are less apathetic and are more inclined to vote Democratic.[15] For example, Louis Harris, analyzing poll results for 1952, concludes that (1) while the rest of the nation was going 3:2 for Eisenhower, union members were voting over 3:2 for Stevenson ("the labor vote held remarkably well"); (2) fewer than one in ten Catholic union members bolted the Democrats, compared to three in ten of the nonunion Catholics; (3) labor and economic issues were a bit more salient for union members and their families than for the rest of the population; (4) union members were solidly convinced that their economic welfare was tied to continued Democratic rule; but (5) the families of union members voted 9:8 for Eisenhower, slipping from their normal 2:1 Democratic inclination. (Two out of every ten members of union families bolted from the voting pattern of their household breadwinner.)[16] These studies suggest that although labor unions change few votes (the John L. Lewis endorsement of Willkie is

[15] See Gallup poll results reported for 1936, 1940, and 1944, in V. O. Key, Jr., *Politics, Parties, and Pressure Groups* (3rd ed., New York: Crowell Co., 1952), p. 79. On 1948, see David Truman in F. Mosteller *et al.*, "The Pre-Election Polls of 1948," *Social Science Research Council Bulletin*, LX (1949), 229–230; and Angus Campbell and Robert L. Kahn, *The People Elect a President* (Ann Arbor: Survey Research Center, 1952), pp. 27–28. On 1952, see Angus Campbell, G. Gurin, and Warren E. Miller, *The Voter Decides* (Evanston: Row, Peterson, 1954), pp. 72–73.

[16] "Labor Was Not an Issue in the Election," in *Labor and Nation Timely Papers*, Vol. I, No. 1 (1953), 15–25, and Louis Harris, *Is There a Republican Majority?* (New York: Harper, 1954), pp. 148–149. R. W. Dodge, using interviews with an area probability sample of the adult population in Detroit in 1951–1952, found that about 80 per cent of the people in union families who indicated a political preference favored the Democratic party, while the nonunion segment had only a slight Democratic majority. The contrast held for the labor-backed mayoralty candidate in 1951, whose main support, however weak, came from persons in union (especially CIO) families. "Some Aspects of the Political Behavior of Labor Union Members in the Detroit Metropolitan Area" (unpublished doctoral dissertation, University of Michigan, 1953). Only two of these studies—Harris, *op. cit.*, and Bernard R. Berelson, Paul F. Lazarsfeld and W. H. McPhee, *Voting* (Chicago: University of Chicago Press, 1954)—use controls for such politically-relevant social categories as race, ethnicity, and religion.

often cited[17]), they do much to mobilize the committed vote, to activate class disposition, and to reinforce party appeals.[18]

That class consciousness can combine with union activity to yield uniform voting is shown in an analysis of the hard-core supporters of G. Mennen Williams, the liberal Democratic governor of Michigan from 1948 to 1960, now Assistant Secretary of State in charge of African affairs. Recognizing Governor Williams' strong commitment to civil rights, almost all of the Negroes, union and nonunion, militant and tame, voted for him in 1958. But when we look at the Williams vote among whites, we find (1) militant unionists, 81 per cent; (2) moderate unionists, 72 per cent; (3) nonmilitant unionists (the ones who merely mention class in discussing issues or avoid class symbolism entirely), 52 per cent; (4) militant nonunionists (only 5 cases); (5) moderate nonunionists, 50 per cent; (6) nonmilitant nonunionists, 38 per cent.[19] Clearly, that minority of workers who are highly class conscious and are exposed to a lively union act out their ideology in the political arena.

We can see the process by which this takes place. Comparison of the political orientation of members and nonmembers or of union actives and inactives suggests that (1) routine experience in union social and economic affairs leads to a generalized pro-labor orientation; (2) this orientation leads to acceptance of union discipline in strikes and collective bargaining; (3) the younger, more ambitious, better educated and sometimes more skilled workers who become involved in local union activity and take charge of union affairs develop transferable political skills

[17] E.g., see Irving Bernstein, "John L. Lewis and the Voting Behavior of the CIO," *Public Opinion Quarterly*, V (1941), 233–249.

[18] Cf. Key, *op. cit.*, pp. 79–80. Berelson *et al.*, *op. cit.*, pp. 37–53, report that in Republican Elmira, in 1948, not only did union members vote more Democratic than nonmembers of the same occupation, class, education, age, or religion, but also that the more pro-union workers were more Democratic, and, in an IAM-AFL local studied, the more interaction the members had with other union members, the more Democratic the vote. Also, those FDR voters who were identified working class remained most loyal to Democrats in 1948. *Ibid.*, pp. 253–273.

[19] John C. Leggett, "Working-Class Consciousness, Race, and Political Choice," *American Journal of Sociology*, LXIX (1963), 171–176. Three in four of the sample belonged to a union; eight in ten of these were members of a CIO union.

in the union office and come to see political action as a necessary extension of the collective-bargaining process; (4) locally, they cultivate political influence to protect their institutional privileges—gain police support in the maintenance of picket lines; (5) in national campaigns, they articulate the national union line at a local level in informal ways, and, less often through precinct organization, see discipline in the political sphere as a normal part of trade-union loyalty; (6) all this adds up to increased political interest and activity both in and out of the union, and, when the available "friends of labor" are mainly liberal Democrats, it gives the political focus of the activists a broader "labor-liberal" flavor.[20]

STRUCTURAL ROOTS OF IDEOLOGICAL DIVERSITY: THE LIMITS OF CLASS ANALYSIS

That we find some workers who are class conscious even in a Marxian sense, that we can point to a labor vote which pro-labor politicians count on should not obscure equally important and perhaps increasingly important facts about American society. The membership of American labor organizations is only about a

[20] Harold L. Wilensky, "The Labor Vote . . ." *op. cit.*, p. 120. Cf. two sample surveys of the Detroit area—Dodge, *op. cit.*, and Arthur Kornhauser, A. J. Mayer, and H. L. Sheppard, *When Labor Votes* (New York: University Books, 1956). The latter found, for a general UAW population, what appeared in the Chicago local that I examined. Cf. two case studies which showed a positive relation between activity and acceptance of labor political effort. Arnold Rose, *Union Solidarity* (Minneapolis: University of Minnesota Press, 1952), pp. 79, 165 and J. Seidman, J. London, and B. Karsh, "Political Consciousness in a Local Union," *Public Opinion Quarterly*, XV (1951–1952), 692–702. Though popular speculation is abundant, systematic analysis of the character of labor as a political force is rare. In addition to Seidman *et al.*, Kornhauser *et al.*, and Wilensky, see F. Calkins, *The CIO and the Democratic Party* (Chicago: The University of Chicago Press, 1952); and H. E. Freeman and M. Showel, "Differential Political Influence of Voluntary Associations," *Public Opinion Quarterly*, XV (1951–1952), 703–714. The latter, on the basis of a pre-election survey in 1950 in the state of Washington using an area probability sample, concludes that business, political, and veterans' associations exert *widest* positive influence; labor and church organizations, *narrowest*. Unions, like the Catholic Church, apparently achieved high saturation of a small target; positive influence was confined to their own membership; in fact, labor's hypothetical endorsement had a negative effect on candidate preference among nonmembers.

third of all nonagricultural employees, compared with more than half in England and more than two-thirds in Sweden. American labor is conservative. Compared to European labor, it shows a low degree of class consciousness. Its leaders have become integrated into the power and status structure of a private-enterprise economy and a pressure-group polity. The mass of unorganized wage and salaried workers is similarly integrated into the mainstream of community life.

These characteristics of American labor can be explained in large part by the impact of continued economic growth on the structure of opportunity. If, on the whole, the rich were getting richer, and the poor, poorer; if occupations were becoming more manual and less skilled; if depressions were frequent and severe; if, in short, the opportunity to rise in the social and economic scale was declining while mass aspirations were rising, we might expect American labor to swing in a politically class-conscious direction. The evidence suggests just the opposite.

Occupational and income changes have brought a vast heterogeneity to the labor force. This heterogeneity is epitomized by the growing middle layers of American society—the new middle class of white-collar and professional people, the increasingly skilled upper crust of manual workers. Advanced specialization has made for finer distinctions of status and a multiplication of occupational worlds. Instead of two armies massed on an industrial battlefield—"labor" on one side, "capital" on the other —we have immense variation in interest and attitude within the ranks of each, and a consequent decline in the solidarity of each.[21] On the management side, the complexity of internal cleavages follows the increased complexity of organization—with increased bargaining over power and budget between staff advisors of specialized knowledge and power-conscious executives, between levels of authority, or on the same level of authority between rival advisors and rival supervisors. Although it is still useful to distinguish between the managers and the managed, the lines are becoming a bit blurred. On the labor side, even unionized

21 Wilbert E. Moore, "Occupational Structure and Industrial Conflict," in *Industrial Conflict*, edited by Arthur Kornhauser and others (New York: McGraw-Hill, 1954), pp. 221 ff.

workers divide on age, sex, seniority, and skill lines, not to mention the divisions by religion, nationality, and race. Union or nonunion, American workers display much diversity in values, beliefs, and ways of life.

Much of this diversity in the culture and structure of American life in general and the "working class" in particular has been blurred by the competing myths of the affluent worker and of the persistence of poverty. Like all myths, they contain partial truths. Let us first consider the myth of proletarian affluence, then the myth of the "Other America," uniform in its poverty culture.

The Affluent Worker and Middle-Class Culture

By world standards, many skilled workers are indeed rich, having family incomes of eight or ten thousand dollars a year.[22] But, in millions of homes, it takes two jobs and often many overtime hours (for which workers are generally eager) to put the family in the middle bracket. When it arrives, its affluence is typically unsteady. Over his lifetime, the affluent worker, like most workers, typically shifts about, moving from job to job, occupation to occupation, with periods of unemployment or retraining punctuating a cycle of ups and downs. Thus, we must be cautious when we hear that American workers are adopting middle-class styles of life or—more broadly—that, on both sides of the Iron Curtain, a culture peculiar to the working class is all but dead. The lines between upper working class and lower middle class—between the mass of foremen, craftsmen, and high-paid operatives, on the one hand and the mass of salesmen, clerks, small entrepreneurs, managers with few subordinates, semiprofessional,

[22] The median annual income of male "craftsmen, foremen, and kindred" twenty-five to sixty-four years old in the civilian labor force in 1959 was 5444 dollars, more than the 5216 dollars of "clerical and kindred workers," the 4645 dollars of "operatives and kindred," or the 3504 dollars of "laborers, except farm and mine." Comparable figures for three or four person families with two or more earners were: 7206 dollars for households headed by craftsmen and operatives combined, 5164 dollars for those headed by laborers. U.S. Bureau of the Census, *Census of Population 1960,* Final Report PC(2)–7B; "Occupation by Earnings and Education" (U.S. Department of Commerce, U.S. Government Printing Office, Washington, D.C., 1964).

semitechnical people, on the other—these lines are blurring. But much of working-class culture persists.[23]

Mass education has made at least high school available to all; manual workers, like white-collar workers, commonly want a college education for their children. But education means something different for each stratum. For his daughters, the worker less often counts on college, and for his sons, he tends to see it in strictly vocational terms. Middle-class parents, in contrast, are more egalitarian, broader in their aspirations. They expect education to pay off at once in a better job, a more enjoyable life, and skills in "getting along with other people." And, although the proportion of working-class children in college is rising, it is still lower than that in the lower middle class. Further, the type of college—community or junior college, or a mass state university—is typically both less desirable and less costly.

It is the same with housing. A satirical song by Malvina Reynolds spoofs suburbia in these phrases:

> Little boxes on the hillside,
> Little boxes made of ticky-tacky,
> Little boxes on the hillside,
> Little boxes all the same,
>
> There's a green one and a pink one
> A blue one and a yellow one,
> And they all are made out of ticky-tacky
> And they all look just the same.[24]

The idea is that suburban tract-housing is uniform and depressing, as are the people in it. Although we lack solid data on this matter, it is likely that the working-class couple, more than their middle-class counterpart, is moved to buy one of the boxes because of previous subordination to a landlord or previous experience with racial conflict in the central city. For workers, suburban homeownership is a flight to freedom; for middle strata it is

[23] The next three paragraphs rely in part on essays by G. Handel and L. Rainwater, S. M. Miller and F. Riessman in A. B. Shostak and W. Gomberg (eds.), *Blue-Collar World: Studies of the American Worker* (Englewood Cliffs, N.J.: Prentice-Hall, 1964), in part of my own observations and data.

[24] Words and music by Malvina Reynolds. Copyright © 1962 by Schroder Music Company. Used by permission.

more a routine validation of status. (For both, of course, it is mainly a search for more space and better schools for their children. And the uniformity of appearances is not confined to the suburbs.)

Differences in the quality and meaning of education and houses lead to differences in how these strata spend their money. They buy similar homes, the same automobiles, and other consumer durables; but workers spend far less for services than their middle-class colleague. The carpenter, in contrast to the bank teller, doesn't hire other craftsmen to fix up his home or car-washers and mechanics to clean and repair his car; he tends to do it himself. And as his wife confronts the family washing, she is unlikely to consult a commercial laundry or diaper service; she does it at home. For outings, the worker falls more easily into an aimless Sunday drive culminating in a park or a "drive-in" with food or film, rather than dinner in a downtown restaurant. For vacations, he is more likely to stay at home or visit relatives than to travel long distances for a planned adventure.

I believe that the differences that divide the upper working class from the lower middle class—differences in career prospects, in the quality and meaning of housing, in the uses of money and leisure—are not so great as the contrasts between the stable upper half of the working class and the depressed lower half. Unemployment rates are far higher among semiskilled operatives, unskilled laborers, and service workers than among other manual workers.[25] Their work histories are more chaotic. They face more obstacles to upward escape. They lack sophistication in shopping, are susceptible to "easy credit," and are therefore entangled in debt and victimized in the market place. The natural title for a recent study of the consumption patterns of low-income families in New York City is *The Poor Pay More*.[26] Like the lower class everywhere, they receive less of every reward modern society offers—economic security, physical safety and health, living space, and

[25] In November 1963, the unemployment rate for craftsmen, foremen, and kindred was only 3.9 per cent compared to 11.9 per cent for laborers, 7.2 per cent for operatives, 5.8 per cent for service workers (excluding private household). U.S. Department of Labor, Bureau of Labor Statistics, "Monthly Report on the Labor Force" (November 1964), p. 30.

[26] David Caplowitz, *The Poor Pay More* (New York: The Free Press of Glencoe, 1963).

opportunity for education and interesting work. The major response to this unyielding and unpredictable environment is retreat. The lower classes are more apathetic politically and more isolated socially (their ties to kin and friends are few and weak). Their leisure is more privatized (they often eat, drink, and watch television alone). Their family lives are unstable and impoverished (broken homes among some lower-class groups constitute a majority).[27] Exposed to sustained stress and lacking strong primary group support to cushion it, their rate of mental illness is startlingly higher than that of the majority of America. Divide the population into five strata by income and occupational prestige, and you will see only small differences in rates of treated psychiatric illness as you move from the top through the upper working class. Pass to the bottom fifth and the rate leaps up to almost three times that of any other stratum.[28]

My theme that the upper working class is closer to the lower middle class than either is to the poor is at first blush contradicted by some research reporting behavior and attitudes of skilled workers which are similar to those of the less skilled. Such findings usually result from weak classifications. For instance, a detailed study based on two nationwide surveys comparing "clerical, sales"; "craftsmen, foremen"; and "operatives" shows that the latter two are similar in level of organizational affiliation, types of affiliation, union membership, religious involvement, media behavior, politics, homeownership, and attitudes toward education and foreign affairs.[29] Such studies not only fail to use a control for education, they also lump stably-employed, high-income operatives with the rest to form the lowest stratum, thereby obscuring crucial differences between the two halves of the working class. Where the similarities are not a result of spurious classifica-

[27] One of the best reviews of evidence is Genevieve Knupfer, "Portrait of the Underdog," in Reinhart Bendix and Seymour M. Lipset, eds., *Class, Status, and Power* (New York: The Free Press of Glencoe, 1953), pp. 255–263. Cf. Michael Harrington, *The Other America: Poverty in the United States* (New York: Macmillan, 1962).

[28] August B. Hollingshead and Frederick C. Redlich, *Social Class and Mental Illness* (New York: John Wiley, 1958). The neurotic and psychotic poor rarely rest on the analyst's couch; instead, they ignore symptoms or take pills or find themselves incarcerated in custodial mental institutions.

[29] Richard F. Hamilton, "The Behavior and Values of Skilled Workers," in Shostak and Gomberg, eds., *op. cit.*, pp. 42–57.

tion but are real, they are found most often in politics and in the uses of the mass media and mass entertainment—sources of cultural standardization that are powerful in every modern state.[30]

Persistent differences in structure and culture between the upper working and lower middle classes and the even greater gulf between both of these and the depressed lower class are matched by great diversity within each stratum. The point can be illustrated by the social composition of the American poor.

The Many Faces of Poverty

Most Americans consider Mississippi a national disgrace. The median annual personal income of Negroes in Jackson, Mississippi, in 1959 was only 944 dollars a year. Yet that same year, per capita income in Puerto Rico—a model of an underdeveloped area that has achieved economic success, a commonwealth whose prosperity puts it in the upper quarter of the world's nations—was 819 dollars, less than that of the mainland's most deprived urban citizens.[31]

Or consider possessions. A study of 464 families in four low-income housing projects in Manhattan, whose median annual income in 1960 was 3000 dollars, found that, in spite of their weak economic position and shaky credit rating, all but 5 per cent owned at least one television set; three in five owned a phonograph; two in five, a sewing machine; two in five, an automatic washing machine; one in four, a vacuum cleaner; and one in seven, an automobile.[32]

Plainly, American poverty is not like the grinding poverty of two-thirds of the world's population. It is poverty relative to the

[30] Harold L. Wilensky, "Mass Society and Mass Culture," *American Sociological Review*, XXIX (1964), 173–197.

[31] U.S. Bureau of the Census, *Census of Population: 1960* (Washington, D.C., 1963), pp. 26–159, reports nonwhite personal income in the Jackson Standard Metropolitan Area; Vol. 1, 53–130, reports income of persons fourteen years of age and older in Puerto Rico. The annual per capita income in India in the early sixties was about 70 dollars. Central Statistical Organization, Department of Statistics, Government of India, "Estimates of National Income 1948–1949 to 1962–1963" (February 1964), Table 1, p. 1 (counting one rupee as twenty-one cents, 339.4 rupees would make 71.27 dollars). Cf. Paul Studensky, *The Income of Nations* (Washington Square: New York University Press, 1958), pp. 228–233, esp. Table 16–3.

[32] Caplowitz, *op. cit.*, p. 37.

comfortable life of the vast majority of Americans. It is not thereby less poignant, less miserable. A minority poor, surrounded by affluence, can feel its deprivation more deeply than the majority poor of Asia, Africa, and Latin America, whose poverty is traditional. And a minority poor may be more of a drag on the conscience of the rich, as we can see when a moderately conservative president feels compelled to declare "war on poverty."

In the current debate about poverty in the midst of plenty, it is generally agreed that one-fifth to one-fourth of the population of the United States lives below a culturally and politically defined poverty line. Who are they?

If we say that an annual income of less than 3000 dollars for a family of four makes them poor, we find that about one in five of the household heads is nonwhite, one in four is a woman heading a broken home, one in three is over sixty-five. In fact, half the poor, compared to a fifth of the general population, have one or more of these three characteristics: over sixty-five, nonwhite, or female heading a household. In spite of this high incidence of poverty among the aged, women, and Negroes, however, it is important to note another concentration: a majority of all the poor, especially the chronically poor, are white, rural, Southern populations—stuck in America's underdeveloped area.[33]

Some of the poor live on welfare checks, some on pensions; some are employed, others not; some are sick, others well; some are refugees from rural poverty, others are veterans of the urban slums; some are migratory workers following the seasons and the crops, others are fixed in low-paid jobs as watchmen and housemaids. A declining fraction of the poor were part of the old immigration from southern and eastern Europe; increasing millions are their minority successors—Puerto Ricans, Mexican-Americans, and the new migrants from the southeastern United States, ranging from white "hillbillies" to urban Negroes.

In short, when you hear of the "working class," you must ask yourself, "Is it the underdog, down and out, going nowhere in a

[33] Committee on Education and Labor, House of Representatives, 88th Congress, Second Session, *Economic Opportunity Act of 1964* (March 1964), Part I, pp. 33–34, 38, 41. Robert J. Lampman, "The Low Income Population and Economic Growth," *Study Paper Number 12*, Joint Economic Committee of Congress, December 16, 1959.

disorganized way, or the factory worker, getting by despite some ups and downs?" When you hear of "skilled craftsmen and foremen," ask, "Are their jobs disciplined, leaving little room for discretion in pacing and timing of work, little choice of tools and techniques, or do their jobs provide much freedom?"[34] Ask, too, where did they come from and where are they going? Were they reared on a farm or not; did they follow their fathers' footsteps in a guild-like craft; move up from the bottom or down from the middle? Have their work histories been full of ups and downs, with intermittent attempts to set up a business of their own, or do they display an orderly job progression? Are they young strivers who expect steady moves to a high-income peak or men in their forties who have given up the race? Finally, when you hear of the "lower class," it helps to know whether they are the welfare poor, the aged poor, or the deserted-woman poor; whether they are militant young Negroes or apathetic old men on Skid Row.

UNSCRAMBLING THE CRITERIA FOR CLASS

The fragmentation of the working class suggested by these examples—indeed the diversity of structure and culture of every stratum—is the main reason that American sociologists have not been impressed with a Marxist framework for the analysis of political conflict in modern society. Instead, they have usually viewed classes as layers in a hierarchical system of ranks differentiated by gradual distinctions. The forms of stratification that are most prominent in American society are power and authority (the Marxist concern), occupational prestige, income and wealth, education, and descent (ethnic, racial, and often religious origin). Sociologists sometimes combine two or more of these criteria of stratification—most commonly occupation and income—and use the label "socioeconomic status." As I have shown above, much behavior and many attitudes are undoubtedly related to strata so defined; political orientations and styles of life are to some extent anchored in socioeconomic position. It is not the ideological conservatism of sociologists that has moved

[34] Harold L. Wilensky, "Varieties of Work Experience," in Henry Borow, ed., *Man in a World at Work* (Boston: Houghton Mifflin, 1964), pp. 125–154.

them to adopt this view of class; on the contrary, it is the facts themselves that have forced them to a more discriminating analysis fitting the diversity of American life.

But sociologists have not, in fact, gone far enough in unscrambling the components of class, and they have sometimes abandoned the search for cleavages that count. The "end of ideology," the end of class war, is not the end of conflict. Whether or not social conflict ever had a simple economic basis, it appears that, in contemporary American life, two of the more significant factors in "class" consciousness are occupational groups and the educational institutions from which they recruit, and minority groups based on ethnicity, religion, and above all race. The influence of these groups may be somewhat softened by mobility, but they are, nevertheless, critical to an analysis of social class.

Education, Occupational Group, and Authority

That the upper strata are more class conscious than others suggests the overriding importance of education as it relates to authority, especially to the authority of expertise. Education is increasingly important as a basis of rank, as a source of authority, and as a determinant of life style. There is reason to expect this to happen in every rich country. Education is becoming the main barrier to social mobility and political power, but it is a barrier through which more and more millions pass. Further, the mass education system required by modern economies is one which trains and sorts people out for vastly varied careers and occupational groups. Thus, to insist on "occupation" as a definer of class is to insist on the importance of the content and quality of education and of the diverse tasks, work schedules, occupational groups, and work places to which various levels and kinds of education lead. Census-type "occupational strata" are accidents of measurement which obscure such variations.

The few careful empirical studies that weigh more than one aspect of social position support this view. In his analysis of *Communism, Conformity, and Civil Liberties* during the McCarthy era, the late Samuel A. Stouffer showed that education was much more powerful than occupational stratum as a pre-

dictor of the tolerance of political and personal deviance.[35] A study in France ranked eleven occupational strata as to mean age, mean education, and four different clues to levels of living —property, auto, servant, and telephone. The only variable that consistently ranks all the white-collar strata above each of the manual and farm strata is education.[36] Wherever education and occupational group are played against general occupational stratum, they turn out to be more important as sources of a wide range of behavior.[37]

Race, Religion, Ethnicity, and Locality

Students of stratification often speak of class or class consciousness when it is more appropriate to speak of race consciousness, or the consciousness of a religious community or ethnic group sharing a common neighborhood. It is when "class," in economic terms, is combined with race, religious-ethnic origins, and locality that we find Marxist "class" consciousness in its most intense form. The Negro ghetto, the Polish-Catholic neighborhood, the craft union dominated by second- or third-generation German-American Lutherans—this is where solidarity prevails.

For instance, of three groups of Detroit Negroes hard hit by the 1957–1958 recession, fifty men displaced by an auto plant shutdown were asked, "If a bad depression were to happen again, what do you think would happen?" The modal responses were (1) Collective violence—revolution, rioting, and so on—28 per cent (". . . we would have a revolution and knock out a few of these capitalists who dog it and hog it"; "I don't see much hope for the country. These youngsters aren't going to take what we

[35] Based on a secondary analysis of Stouffer's data. Seymour M. Lipset, "Democracy and Working-Class Authoritarianism," *American Sociological Review*, XXIV (1959), 489. The occupational strata: low manual, high manual, low white collar, high white collar.

[36] Marcel Bresard, "Mobilité sociale et dimension du la famille," *Population*, V (1950), 533–566. Cf. O. D. Duncan, "Methodological Issues in the Analysis of Social Mobility," in Neil Smelser and Seymour M. Lipset, eds., *Social Structure, Mobility, and Economic Development* (Chicago: Aldine Press, 1965), in press.

[37] Harold L. Wilensky, "Varieties of Work Experience," *op. cit.*, p. 147; and "Mass Society . . . ," *op. cit.*, pp. 184–186.

took in the depression. They will tear up the country.") (2) Individual acts of violence—assault, killing, and the like—18 per cent ("We won't have no country. There'll be fighting, stealing, starving. No one will have no chance. Not even the rich man,") These were high seniority semiskilled workers who had achieved a foothold in Detroit industry and partial homeownership. An almost identical distribution of response—about half projecting violence—was found in two other Negro samples, one in a close-knit Negro neighborhood with radical leadership and younger population, half of which was unemployed (N = 32), the other in a neighborhood chosen for comparable deprivation but without political organization (N = 39). Most of these seventy-one Negroes had experienced considerable recent unemployment, or the threat of it, by virtue of low seniority position; the data suggest that the most deprived are most prone to "violent" verbal responses.[38] There is also some evidence that, holding income and skill constant, Polish-Americans are more militantly class conscious than German-Americans, and Negroes are more class conscious than either. Generally, the lower the ethnic-religious or racial status, the more Marxist the view of class relations.[39]

At the same time, working-class militancy often reflects the solidarity of occupational communities with an ethnic and religious base. Guild-like fraternities of Protestant printers or carpenters, third-generation Italian blue-collar neighborhoods in Boston, metropolitan police departments dominated by Irish Catholics, a succession of minority groups in the needle trades, with the early Jewish and Italian garment workers giving way to Negroes and Puerto Ricans—these are ready examples of the convergence of occupation, minority origin, and locality.

That religious-ethnic and racial groups heavily influence the

[38] D. Street and John C. Leggett, "Economic Deprivation and Extremism: A Study of Unemployed Negroes," *American Journal of Sociology*, LXVII (1961), 53–57, and Harold L. Wilensky and Hugh Edwards, "The Skidder: Ideological Adjustments of Downwardly Mobile Workers," *American Sociological Review*, XXIV (1959), 215–231. The most strongly alienated men in my current study are Negro high-school graduates on relief. Harold L. Wilensky, "Types of Mobility and Their Measurement," in Neil Smelser and Seymour M. Lipset, *op. cit.*

[39] John C. Leggett, "Uprootedness . . . ," p. 687, and Bruno Bettelheim and Morris Janowitz, *Special Change and Prejudice* (New York: The Free Press of Glencoe, 1964), Chapter 2.

political behavior of their members is both an assumption of every urban politician and a finding of every major study of voting patterns. Indeed, in every presidential election from Truman to Johnson, race and religion, not class, have been the most important bases of voting blocs and voting shifts.[40]

Mobility and Class

If there is any force as powerful as minority origin as a source of the ideological diversity of the working class, it is social mobility—frequent moves between jobs, occupations, employers, and between communities, and from rural to urban areas. Some mobility involves social discontinuity—the movement between positions—whether up, down, or across—is major, sudden, unpredictable, and necessitates disruption of ties to kin and friends. The painful transformation from peasant to proletarian, farm to factory, and alien to citizen which characterized the early industrialization of America epitomizes discontinuous mobility—and, as we have seen, it can produce class consciousness and political protest. But other kinds of mobility can be orderly, predictable, and smooth, as in the gradual unfolding of a secure and stable career. A dampening of class consciousness is the most common result. In any case, high rates of mobility assure a continual shift of ambitious manual workers out of the working class and a smaller but significant downward movement of unsuccessful men from the middle.

The political and ideological effects of social mobility depend, not only on the type of mobility, but on the economic context in which it occurs. In less developed countries characterized by low per capita income, low levels of education, few ladders for mobility, and an explosion of both population and expectations, a high rate of discontinuous mobility is likely to produce social disorganization and political disruption. In these countries, the loosening of traditional ties without the immediate substitution

[40] See, for instance, Berelson *et al., op. cit.* Catholics among the Eisenhower Democrats of 1952 and 1956 made major shifts to President Kennedy in 1960. More than nine in ten Negro voters of 1964 lined up for President Johnson. Jews have shown almost as much uniformity in presidential voting preferences as Negroes.

of new ones provokes disaffection; nationalist and other extremist movements provide the context for the fervent expression of this disaffection.

The effect of a similarly high rate of discontinuous mobility in rich countries is more variable, although there is consensus on one line of argument. These countries are characterized by high per capita income, a high proportion of men educated beyond elementary school, a high degree of social differentiation, and therefore a large number of discrete ladders for mobility. They can sustain a large population, contain the political effects of a rise in expectations, and cushion or contain the effects of even high rates of downward mobility. The more education and income, the more urgent and widespread are great expectations; but the more differentiation, the more opportunity for their fulfillment and the more consolation prizes for those who lose out. The ladders which a man can climb are so numerous that falling behind on one or falling off another may neither cause an irrevocable loss of social position nor yield much sense of deprivation. For instance, my data show that intergenerational skidders—men whose occupations rank below their fathers—tend to marry up. Men who achieve less education than their fathers or stay on the same level (which in the United States means losing out) tend to marry women with superior education from families with occupational status higher than their own. Many skidders also marry up ethnically.[41] Other studies have reported a low correlation between income and occupational prestige; many note the high economic and occupational status of some minority groups.

Reinforcing these structural constraints on class consciousness are the cultural correlates of economic growth, particularly a success ideology which accents personal responsibility for work performance and job fate. In poor countries, which usually lack this ideology, the response to intergenerational or worklife "skidding" is externalized; it is readily channeled into collective political protest. In rich countries, the same skidding leads to self-blame, a sense of shame, and withdrawal from social contact. At the extreme, skidding and other forms of discontinuity produce

[41] Harold L. Wilensky, "Types of Mobility . . . ," *op. cit.*

suicide—self-destruction, not societal destruction.[42] In the typical case, however, skidding is rationalized, often realistically, as a temporary setback; in American data we usually find that skidders and fluctuators are more like upwardly mobile than nonmobile men. Skidders tend to retain the values and practices of the class from which they slipped and to which they expect to return.[43] Perhaps this is the best single explanation for "working class Tories"—that third of manual workers in the United States who vote Republican, the similar proportion of the British working class who vote Conservative. Mobile workers moving in either direction, along with other workers who escape from working-class culture in spirit or practice, function to reduce working-class solidarity and social criticism from below—and thereby slow down the push toward equality.

Although the prospects of individual mobility out of the working class and the experience of falling into it from above provide a powerful force for ideological heterogeneity, the movement of *groups* may have a reverse effect. If an entire stratum, craft, or profession is declining, there is more chance of unity in misery and a collective protest—scapegoating or lashing out against symbols of oppression. The tendency is evident in the populism of family farmers facing corporate competitors or of grain-growers dependent on banks and railroads, in the anti-Semitism of obso-

[42] Comparing 103 white male suicides, age twenty to sixty and 206 men matched for race and age, Breed found that three in four of the suicides had suffered at least one form of downward mobility (intergenerational skidding, 53 per cent; recent income loss, 51 per cent; recent worklife skidding, 35 to 43 per cent depending on the base and scale used)—far more than the controls. Also, only half the suicides were working full-time just before they did away with themselves. Warren Breed, "Occupational Mobility and Suicide Among White Males," *American Sociological Review*, XXVIII (1963), 179–188. Cf. similar findings in Andrew F. Henry and James F. Short, Jr., *Suicide and Homicide* (New York: The Free Press of Glencoe, 1954); Austin L. Porterfield and Jack P. Gibbs, "Occupational Prestige and Social Mobility of Suicides in New Zealand," *American Journal of Sociology*, LXVI (1960), 147–152, confirming the original formulation in 1897 of Émile Durkheim in *Suicide* (New York: The Free Press of Glencoe, 1951).

[43] Harold L. Wilensky and H. Edwards, "The Skidder: Ideological Adjustments of Downwardly Mobile Workers," *American Sociological Review*, XXIV (1959), 215–231, and P. M. Blau, "Social Mobility and Interpersonal Relations," *American Sociological Review*, XXI (1956), 290–295. I estimate that skidders are perhaps a fifth of the working class of urban background, a tenth of all urbanites in the labor force—in time of recession, more.

lescent craftsmen, in the political extremism of small businessmen —the franchised dealer dependent on the big-business supplier, the small manufacturer dependent on one corporate customer, and the retail proprietor threatened by chain stores and discount houses.[44] Such responses are less likely and do not spread if they occur when the position of the group or stratum is stable but when the individual is threatened.

No rich country of the sixties can rule out political responses to social discontinuity until we study vanguard populations such as engineers and technicians. When these college men are displaced or thwarted, we have no reason to suppose that they will be as apathetic or personally disorganized as displaced workers in the same affluent context. Even small reverses (or threats of reverses) owing to industry cutbacks or area recessions can provoke a collective political response. An obvious research implication is to discover types of discontinuities in the lives of Goldwater activists in the mid-sixties and their counterparts in other rich countries.

The most important qualification to my consolation-prize hypothesis concerns education. If educational opportunity whets the appetite for a better life, but does not lead to job oppor-

[44] In my samples, as in many other studies, the "little man" who feels squeezed by both big enterprise and big labor is more prone to both extremism and scapegoating than others in the same social class. For instance, of the twenty-nine self-employed men of the middle mass who felt squeezed, 38 per cent recalled Senator Joseph McCarthy with enthusiasm—this in 1960, several years after his demise. Of the thirty-seven comparable entrepreneurs who did *not* feel squeezed, only 14 per cent were retrospective McCarthyites. Felt power squeeze is generally a better predictor of McCarthyism than blocked mobility strivings, especially among small entrepreneurs. Cf. Martin Trow, "Small Businessmen, Political Tolerance, and Support for McCarthy," *American Journal of Sociology*, LXIV (1958), 270–281; and David Rogers, "The Automobile Dealer: A Study of the Status and Ideology of the Small Businessman" (unpublished doctoral dissertation, Harvard University, 1960). On rural radicals, see Seymour M. Lipset, *Agrarian Socialism* (Berkeley: University of California Press, 1950). A French sociologist, studying 206 randomly-selected furniture-makers of the Seine Department, finds that they tend to lead solitary lives; two in five of the artisans in this declining occupation evidenced anti-Semitic sentiments. In contrast to American findings, however, the most deprived individuals within this generally obsolescent, anti-Semitic group were no more prejudiced than the least deprived. Simone Francès *Ou va L'Artisanat français?* (Paris: Centre National de la Recherche Scientifique, 1961), pp. 100–105, 121. Cf. Bruno Bettelheim and Morris Janowitz, *op. cit.*, Chapter 2 and p. 164.

tunity and income, it serves less as a compensatory reward than as a source of resentment. Thus, as their educational opportunities exceed their economic rewards and living standards, American Negroes will become more militant. Educated whites already receive roughly congruent rewards, and their political discontents are kept within manageable proportions; uneducated whites, if they are not lucky in the labor market, at least have a chance to shuck off lower ethnic or religious origins or marry up.

SUMMARY AND CONCLUSIONS

The uncritical acceptance of Marx by European scholars and activists has been matched by the avoidance or distortion of Marx by American students of stratification. Happily there is convergence on a middle ground where the great diversity of life styles and political orientations within every social class is clear to everyone at the same time that the facts of power and the clash of competing interests are not lost to view.

Class consciousness in the Marxian manner has appeared for brief periods during America's early industrialization, especially from the Civil War to World War I. It now appears as a response to discontinuous mobility among some rural migrants to our metropolitan slums, as the political stance of a few small fraternities of craftsmen and union activists who say that voting Democratic is voting the workingman's ticket and of those upper and upper-middle class families who think that voting Republican is voting against the welfare state; and as the militancy of hard-pressed minority groups, notably Negroes, in whom it is plainly more a consciousness of race than of class. In general, American labor has become integrated into a private enterprise economy and a pressure-group polity.

The social classes are slowly merging, especially in the bulging middle; standards of living of the upper working and lower middle classes are becoming similar. But some differences remain—differences in career prospects, in the quality and meaning of housing, in the uses of money and leisure. More impressive are the differences that divide the middle mass from the poor. Though the poverty of the American lower class is not the poverty of a Chinese peasant or a peon in northern Brazil, it may nonethe-

less put them in sharp contrast to their fellow citizens. Economic insecurity, social isolation, political apathy, family instability, mental and physical illness—these are the burdens of the remaining American poor.

Such strata—upper and lower middle, upper and lower working class—are not neat economic or occupational categories. In fact, if there is any one thing that divides them, it is educational level—increasingly a source of authority, of rank, of life style. And most important, each stratum contains within it enormous cultural and structural variation. I have discussed three powerful sources of diversity within the American working class. First is the organization of work and the nature of work experience; the separate worlds of work multiply. All rich countries display astonishing specialization by job and occupation. All develop mass-education systems whose diversity of curriculums feeds the demands of specialization.

Second is the pervasive influence of mobility. A modern population is a population on the move. For the working class, that means a large minority on the way up and out, another minority freshly down from the middle class—both sources of Tory ideology and political action. Further, the channels for mobility are multiplying as rich countries become richer. If we wish to deal with the individual's mobility experience as a source of ideology, we must bring into view all the possibilities—not merely changes in occupational status, but changes in education, income, residence, possessions, and leisure style—even the chance to escape lowly social origins by marrying up. Some of this mobility is downward, disorderly, even painful, but the pain of loss in one sphere is often offset by the pleasure of gains in another. In an environment of expanding opportunity, in the context of an ideology of success, a man who finally fails, who is blocked in every sphere, blames himself.

The third major source of diversity within the American working class is the persistent hold of religious-ethnic and racial groups. A minority man is born into this system of ranks, and he carries its mark for life, even if he later changes his religious affiliation or assimilates to the dominant white Anglo-Saxon Protestant (WASP) culture. Where skin color serves as a basis of discrimination and prejudice, the mark of minority status is, of

course, permanent. For generations to come, Negroes will be a force for cleavage in the working class.

To these major sources of diversity, we must add the usual divisions by sex, age, seniority, competing crafts, and rival unions. Together, these tendencies dampen the class struggle, fragment the working class, and reduce its "class consciousness."

A slow merging of upper working and lower middle classes, a sharper distinction between both and the poorest fifth, increasing heterogeneity within each broad stratum—these trends impose limits on any "class" analysis and make Marxist categories virtually irrelevant. When we search for political attitudes that express class consciousness and then specify the groups involved and analyze their origins and prospects, the idea of class crumbles, and we are forced to search for other, more weighty forms of social differentiation. We can best look at modern society as a loose collection of overlapping communities of work, religion and ethnicity, race, class, and locality held together mainly by economic interdependence, by legal, military, and political institutions, and by the media of mass communication and entertainment. There is no class struggle here. Instead, we find a much more complicated fluid accommodation among shifting coalitions of interest groups.

This chapter draws on ideas and data in Harold L. Wilensky, "The Problems and Prospects of the Welfare State," in Harold L. Wilensky and C. N. Lebeaux, *Industrial Society and Social Welfare* (New York: The Free Press, 1965), and my *Work, Leisure, and Freedom* (New York: The Free Press, forthcoming).

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1-20-66

Coal Showdown?

UMW Set to Reopen Pact, Demand More Fringes, Job Security

Mine Owners Fear Threat To Competitive Gains, Are Likely to Resist Strongly

Pressure From Union Rebels

1/20/66

By FREDERICK C. KLEIN
Staff Reporter of THE WALL STREET JOURNAL

PITTSBURGH — What could be the most serious bargaining showdown in the coal industry since the early 1950s is shaping up for this spring.

The United Mine Workers Union is moving toward new labor contract negotiations with major soft coal operators' groups. The demands it will press, probably focusing largely on new job protection for miners, seem likely to provoke stiff industry resistance.

Soft coal production recently has been recovering dramatically from a long slump, largely because of growing consumption by electric utilities. Coal companies have pared costs, pushed automation and cut prices in efforts to beat off the growing competitive threat from atomic power and other fuels. A costly labor settlement or a bruising strike could seriously weaken the mines' new competitive muscle, coal men fear.

But the UMW is confident the reviving fortunes of the industry make 1966 a good year to negotiate. So President W. A. "Tony" Boyle told The Wall Street Journal he intends to call a meeting of the union's national policy committee, composed of 300 local and district officers, "in the not too distant future" to shape contract goals.

Open-End Contract

This is the first indication that the union plans to seek a new contract this spring. The main UMW contract has no expiration date; it simply allows either side to serve 60 days' notice any time after Feb. 1 that it is terminating the agreement. The pact also permits negotiations without a formal reopener. Until now there had been doubt that the UMW would press for a new contract this year.

Mr. Boyle has set no target date for the start of talks with the Bituminous Coal Operators Association, which represents big Eastern coal producers. But he indicates negotiations will start long enough before April 1, the earliest possible expiration date of the present pact, "to try to avoid any problems over retroactivity." The contract with the Bituminous Coal Operators Association covers about 40,000 UMW members and sets the pattern for agreements covering the remaining 60,000 soft coal miners the union represents.

Mr. Boyle makes it clear he intends to press harder for fringe-benefit and job-protection gains than the UMW has in the past. Under ex-President John L. Lewis the union soft-pedaled demands in those areas in favor of winning higher wages. As a result, coal miners' daily minimum pay rates have climbed to $26.25, one of the highest rates in any U.S. industry. But the number of men in the mines has dwindled to just over 100,000, from more than 400,000 in the years immediately following World War II.

A Change Begins

The union began to change course under Mr. Boyle in 1964, when it last negotiated industry-wide labor agreements in soft coal. That contract still emphasized wages; it featured a two-step pay raise totaling $2 a day. But it also included a long-sought provision that the last man hired in a mine, whatever his de-

Coal Showdown? UMW Is Planning To Reopen Pact, Demand Big Gains

Continued From Page One

$4.60 a ton, but that is still well below earlier averages.

Productivity also has risen sharply. Today a miner produces an average of more than 17 tons a day, up from 12.83 tons in 1960 and only 6.77 tons in 1950. Coal production, which dropped from 501 million tons in 1956 to 403 million tons in 1961, has come back sharply. It hit 507 million tons last year, the highest since 1951.

This comeback makes the union feel the time is ripe for new negotiations, Mr. Boyle says. He characterizes the industry's profit picture as "much improved," and says: "You're not reading stories any more about coal being a sick industry."

The dimunitive, 57-year-old labor leader asserts he's well aware of coal's continuing competitive problems. He cites joint union-industry efforts to stem imports of low-cost residual oil, which competes with coal to supply the fuel needs of East Coast utilities, and a continuing joint legislative effort to curb Government subsidies for atomic energy. Yet, he continues, "You can't run a union completely on that basis. Our people are entitled to certain (contract) improvements, and we'll have to take our chances to get them."

Other factors are pushing the union into taking a stronger position on fringe benefits and job protection. Soft coal employment is continuing to fall as production climbs; U.S. Bureau of Labor Statistics figures indicate that the work force in soft coal last year averaged about 116,000, a 3% drop from 1964 despite a 5.5% climb in output. And the 1964 pact was greeted by a wave of wildcat strikes in Pennsylvania, Ohio and West Virginia, where dissident miners contended the union didn't go far enough to secure non-wage gains.

This dissident group has been a thorn in Mr. Boyle's side since he took over the UMW's top job in 1963. The rebels contrast UMW contract provisions for fringe benefits with some far stronger ones recently negotiated by the bigger United Steelworkers of America.

The rebel group ran a candidate against Mr. Boyle in the union's 1964 elections, and again challenged the UMW's top leadership last September with a wave of unauthorized walkouts set off by the firing of several officers of a West Virginia local over a safety dispute. "Boyle is on the spot; you can stuff his followers into a phone booth," Karl Kafton, one of the fired officers and an outspoken foe of the UMW chief, said at the time.

Mr. Boyle says those miners comprise a minority of the union's membership. Yet his decision to call in the national policy committee either before or shortly after he begins talks with Operators' Association representatives indicates he will seek a broad consensus on goals before pushing ahead. In 1964 the policy committee wasn't summoned until after major terms of the contract had been hammered out by Mr. Boyle and Edward G. Fox, the companies' chief bargainer.

1964 Gains Defended

Mr. Boyle hotly disputes dissidents' claims that job security and fringe provisions of the 1964 pact were inadequate. He says the "helper" clause, while not spelling out that helpers on continuous mining machines be new full-time employes, nevertheless created "hundreds and hundreds" of jobs in mines where crew-sizes were below usual minimums. He calls the mine-wide seniority provision "the strongest we've ever had"; previously, seniority rights were limited to specific job classifications. He notes too that the 1964 pact, for the first time, named holidays for which extra pay is required if a miner works that day (miners still receive no pay if they don't work on the holidays).

Provisions of the 1964 contract are likely to form the basis of the union's demands this year. The final list won't be drawn up until after the policy committee meets, but Mr. Boyle asserts that one certain goal will be paid holidays, even for miners who don't work those days. "There's no question we'll ask for that," he says. "The operators knew this when we got them to list the (seven) holidays last time."

One way the union probably will seek to stem job losses is through extension of the 1964 "helper" clause, Mr. Boyle adds. "Some old machines aren't covered there now, and the present clause doesn't include equipment introduced since 1964," he says.

Another possible tack: Asking that all overtime be paid for at double straight-time rates, instead of time-and-a-half for most such work, as at present. This could force operators to take on new men rather than pay a costly overtime bill.

A Safety Argument

The UMW is expected to tie crew-size proposals to mine safety. UMW officials long have been disturbed that automation hasn't led to fewer fatalities in the industry, one of the nation's most dangerous. Soft-coal industry fatalities in 1965 totaled 247, or about one per million man hours, up from 216, or 0.9 per million man hours, in 1964.

Mr. Boyle continues: "There's been a lot of discussion that our vacation arrangements need realignment." Now, all miners with at least one year's seniority get two-week vacations at a flat payment of $225, up from $200 in 1963. Mr. Boyle says he has received many resolutions from locals asking that vacations be tied to seniority, with longer-service workers receiving longer vacations as in most other industries. Proposals for higher wages also are being considered, he says.

One area where the UMW isn't expected to seek new increase is in the 40-cents-a-ton royalty that operators pay into its welfare and retirement fund. Royalty payments are the fund's sole support, and benefits in recent years have climbed with output. Last February, pensions were boosted to $85 a month from $75, and the minimum eligibility age was lowered to 55 from 60. In October, the monthly payout jumped again to $100, where it was in 1961 before sagging output caused a cutback. Moreover, the fund is expected to make substantial cost savings when the medicare law becomes effective in July, raising the possibility of further pension increases.

"We're satisfied the fund is meeting its responsibilities," says Mr. Boyle. "There's been no pressure for royalty boosts."

miners' daily minimum pay rates have climbed to $26.25, one of the highest rates in any U.S. industry. But the number of men in the mines has dwindled to just over 100,000, from more than 400,000 in the years immediately following World War II.

A Change Begins

The union began to change course under Mr. Boyle in 1964, when it last negotiated industry-wide labor agreements in soft coal. That contract still emphasized wages; it featured a two-step pay raise totaling $2 a day. But it also included a long-sought provision that the last man hired in a mine, whatever his department, would be the first laid off in case of production cutback. This is supposed to help protect the jobs of older miners, for whom finding new employment usually is most difficult. The 1964 pact also specified for the first time that "helpers" be assigned to the big loading and continuous mining machines that drastically have reduced coal manpower needs in recent years.

Any move by the union men to add to those gains is expected to bring strong opposition from the mine owners, who traditionally have preferred to grant wage increases in return for a free hand in introducing new equipment and in retaining their prerogatives to arrange work scheduling and determine crew sizes. Operators likewise have balked at improving such benefits as holidays and vacations because of competition with the non-union mines that account for roughly one-fourth of the nation's coal output.

"If we boost wages, the non-union people have to go along," says the president of one Eastern coal company. "If we boost fringes they say 'nuts' and usually get away with it," thus giving non-union mines lower production costs.

The UMW's past willingness to concentrate on wages while allowing unhindered mechanization is credited with contributing importantly to the 13 years of general labor peace coal has enjoyed. The last industry-wide walkout came in 1952.

"We'll Have to Fight"

Mr. Boyle agrees that a bargaining round concentrating on fringe-benefit and job-protection demands now will be especially tough. "If we talk about saving jobs the first reaction will be "featherbedding," he says. "We'll have to fight harder to get what we want."

In contrast to the situation in steel, autos, electrical equipment and other more prosperous industries, automatic negotiation of new labor contracts at the earliest possible date hasn't been a standard practice recently in soft coal. The UMW's 1958 agreement with the operators could have been reopened in 1960, but the union held back from seeking new gains for a full four years after that. This restraint, widely hailed by industry leaders, contributed mightily to cost cutting efforts that have aided coal in its competitive battles with oil, natural gas and, more recently, atomic energy.

The average mine-mouth price of coal rank from a high of $5.08 a ton in 1957 to .46 in 1963, the last full year before the most cent labor pact went into effect. Minor price osts recently have lifted quotes to about

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Negro Unemployment

To the Editor:

Eileen Shanahan's article on Negro unemployment (Sept. 11, News of the Week in Review) states that the reported increase in the jobless rate during recent months might represent "statistical variance" resulting from sample survey methods.

Needless to say, I would be glad if this were the case. Any statistical estimates based on sampling are subject to possible error. It is highly unlikely, however, that the worsening in the Negro employment situation is only a statistical phenomenon.

Our sample consists of 35,000 families. About one-tenth are Negro. Our recent report compared the first four months of 1966 with the second four months, and showed an 0.8 point increase in the Negro unemployment rate. Adult men, adult women and teen-agers all had higher rates. The chances are at least 98 out of 100 that the increase was real.

Subsequent to my press conference of Sept. 2 we have had an opportunity to look a little further into the problem. I can report the following:

Actual Negro unemployment, as well as the percentage rate and the seasonally adjusted total, was higher in the May-August period than in January-April.

Higher unemployment did not result from an unusual influx of new workers into the job market. In fact, the rise in the Negro labor force during recent months was a little smaller than usual. Likewise the increase in the number of unemployed Negroes without previous work experience was a little smaller in the summer of 1966 than in summer 1965.

Employment of Negroes in manual and service occupations usually expands during the spring and summer. This year there was a healthy increase in employment of skilled Negro craftsmen beginning in May. But the number of semi-skilled, unskilled and service jobs increased hardly at all. And the number of Negro women employed as private household workers declined as the year progressed. (We do not have specific evidence as to whether some Negro women have become reluctant to take this kind of work.) Finally, employment of Negroes in harvest activity did not rise as much as normal this year, apparently because of technological changes in agriculture.

As Miss Shanahan says, fluctuations in Negro employment are difficult to understand. We will continue to analyze the statistics, to see what can be learned. I hope they will show an improvement in the Negro job situation in the months ahead.

ARTHUR M. ROSS
Commissioner
Bureau of Labor Statistics
U.S. Department of Labor
Washington, Sept. 14, 1966

Appropriations Authority Gives Congress Chance to Review Great Society in 1966

10-26-66

By ARLEN J. LARGE

WASHINGTON—It would be a serious distortion of events to dwell too heavily on the rent subsidy defeat suffered by President Johnson in the last hours of the Congressional session. Denial of subsidy funds in the final appropriation bill stands out starkly against a landscape of year-long revolutionary lawmaking. In terms of important legislative tonnage, the first session of the 89th Congress was all it has been cracked up to be.

Yet the rent subsidy incident is worth special study as a specimen of next year's possible lawmaking trends. Right now, anyway, everyone says the 1966 session will be different: It will be time to digest the Great Society just wolfed down whole. Things may not turn out that way, of course. New racial emergencies or foreign crises could require continued full-throttle production; what LBJ regards as a bland 1966 legislative diet may seem strong spice to others.

But Congress is leaving town now with the expectation that next year's session will be confined mainly to polishing up its 1965 handiwork. On the House Education and Labor Committee, Rep. Edith Green (D., Ore.) plans to bird-dog the efficiency with which the Office of Education deploys its multi-billion-dollar array of new school aids. Chairman Patman (D., Texas) of the Joint House-Senate Economic Committee is getting ready for an ambitious survey of the Great Society as a whole; his staff of professional economists hopes, among other things, to concoct long-range cost projections of Uncle Sam's new activities.

The March to Capitol Hill

This kind of function is known as Congressional "oversight," a jargon term for riding herd on the Executive branch. And one of the most important mechanisms for overseeing the work of bureaucrats is the appropriations procedure which snared the rent subsidy plan last week. New or old, nearly all Federal activities require annual appropriations of fresh money from the Treasury to keep them going. Fewer new programs may go on the lawbooks next year, but the specialized House and Senate Appropriations Committees will have a heavier workload than ever as Mr. Johnson's agency heads march to Capitol Hill to justify their spending plans.

Congressional appropriations cuts are usually made in the name of economy; in years past such career economizers as the late Rep. Clarence Cannon thundered annually against the inflationary perils of all Presidential budgets in their uncut stage. Starting last year, however, President Johnson grabbed the penny-pincher image away from Congress; his huge budgets have been successfully sold as "preshrunk." Only a pittance was chopped from his appropriations request this year, and with the same big Democratic majority returning in January there's little prospect of a 1966 outbreak of economy fever.

But even in such an atmosphere the appropriations process still gives lawmakers a powerful lever for influencing Federal programs. Housing boss Robert Weaver lost his measly $12 million in rent subsidy money not because the House thought it would break the Treasury, but because of dissatisfaction with his start-up plans. Those Great Society administrators who fear a lot of Congressional back-seat driving next year may profit by analyzing the rent subsidy fiasco.

The rent subsidy plan is intended to lure private builders away from the luxury market and put up more new moderate-rent apartments. The landlords would be churches or other non-profit groups, receiving Federal rental payments on behalf of poor families; officials hoped to work a little social engineering into the program, encouraging landlords to take nonsubsidized as well as subsidized tenants. Mr. Weaver visualized a happy mixture of rich and poor, black and white, living constructively together at the Methodist Arms.

But for such a simple goal, the rent subsidy mechanism for achieving it was incredibly complex. Everyone—liberals and conservatives alike—kept asking Mr. Weaver how rich a person could be and still get rent subsidies. Because the limit would vary from place to place, Mr. Weaver could quote no single figure. His vague answers either sparked suspicions of a boondoggle for the rich, or confused people hopelessly.

Baffled or not, the Senators agreed to give Mr. Weaver $10 million in initial funds, but only after he bowed to their demands for a change in the proposed eligibility rules.

But the House wasn't convinced that Mr. Weaver, deep down, really wanted to change the original rules. "A man convinced against his will is somewhat of the same opinion still," rhymed Chairman Mahon (D., Texas) of the House Appropriations Committee. So the rent subsidy money is being held hostage by the House until Mr. Weaver drafts a new plan. In Mr. Mahon's words: "Let us see with our own eyes what the regulations will be before we take action."

Variation by Personality

The rent subsidy example shows that the appropriations process can be a powerful digestive organ indeed for a raw new Federal endeavor. But results in the past have been spotty, depending on the personalities in charge of reviewing each fragment of the budget. State Department officials testifying before the Appropriations subcommittee of Rep. Rooney (D., N.Y.) can assume they'll get a general dressing-down for profligacy. But Rep. Fogerty (D., R.I.) just as regularly upbraids Federal health researchers for spending too little.

A Joint Committee on the Organization of the Congress may submit proposals next year for making the appropriations process more efficient. This study panel has heard suggestions for increasing the appropriations committees' staffs of investigators, and using computers to keep track of all the budget's nooks and crannies. Sen. Magnuson (D., Wash.) thinks Congress ought to spend the first part of each session considering regular legislation, devoting all of its energy later in the year to appropriation bills.

Any such reform is years away. Meanwhile, the existing appropriations process promises to be a lively battleground in the 1966 session even if the White House runs out of new ideas. If you don't believe it, ask Mr. Weaver.

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Impelling Integration

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Education Chief Keeps Pressing Despite Peril to Career

By JONATHAN SPIVAK

WASHINGTON—"You can't tell what will happen to an explosion like this, whether it will expand or contract," reflects Harold Howe II, U.S. Commissioner of Education. "If it continues to a point where either I or others consider I'm not useful, if I ever thought I'd not be useful, I'd go do something else. But I don't think so now."

The explosion Mr. Howe refers to is the Southern struggle against the Office of Education's effort to desegregate Dixie schools by means of Title VI of the 1964 Civil Rights Act. This section authorizes withholding Federal funds from racially discriminatory state and local activities.

From the education standpoint, the stakes are clear—whether, a dozen years after the Supreme Court's desegregation decision, the Deep South, particularly Louisiana, Mississippi and Alabama, will be able to preserve a dual school system in which white and Negro students are separately educated. (Less than 2% of the Negro pupils now attend integrated schools in those states, and for the South as a whole the proportion is probably not much more than 10%.)

What's not so evident, however, is the effect of the outburst on Mr. Howe's professional career and political survival. Neither allies nor enemies believe he can long advocate swifter school desegregation than the nation as a whole is willing to accept. The recent Congressional uproar over the Office of Education's Title VI guidelines stemmed more from unfounded fears of future forced racial mixing in Northern schools than from the small advances already achieved in the South.

Open and Outspoken

Even the most experienced and adept politicians have trouble staying in step with the public civil rights pace. Harold Howe is neither a politician nor a person who can easily quiet his convictions. Unlike his much-praised predecessor, Francis Keppel, who was cautious and discreet in discourse, Mr. Howe tends to be open and perhaps too outspoken, his associates worry. Indeed, what especially aroused Congress was his plain talk favoring educational parks, bigger school districts to encompass city and suburb, and other such steps to eliminate "de facto" school segregation arising from housing discrimination.

"Not that I've got any grand plans to impose anything on a Northern school district," he insists. "But (de facto segregation) is a problem, it is a serious, a national problem and it exists in many, many communities of the country. Those who are responsible for dealing with it routinely are the local districts, and they need to get the matter on the agenda."

This may hardly sound inflammatory. Indeed, for a man who has suddenly become the most castigated education commissioner of recent years, Mr. Howe's expressed aims are surprisingly modest and restrained.

Mr. Howe is attempting to reconcile the philosophical tenet of local control with the practical reality of steadily expanding Federal financial support; his office disburses almost $4 billion a year to elementary and secondary schools and institutions of higher learning. "I think the Federal Government quite properly should stay out of who is hired by the schools, what's taught in the schools and how schools are organized," he insists. But the perplexing problem is how to promote national purposes, especially improving the education of impoverished students, without producing deep Federal involvement in local school affairs.

Impediments to Improvement

Mr. Howe's hoped-for solution (like Mr. Keppel's) is a resurgence of the state educational agencies, which are receiving increasingly large sums from his office for school improvement. But money alone can't

missioner's current concern must be to hold the line on civil rights. He is dedicated to dismantling the legal barriers that keep Southern Negro students in segregated schools. To do less would be to ignore the consistent findings of the courts. Moreover, the much-criticized Title VI guidelines were in fact devised by the Office of Education before Mr. Howe arrived in Washington last January; he could hardly have refused to adopt them without arousing the wrath of civil rights leaders in and out of Government.

He has not entirely abandoned the effort to employ Title VI to deter deliberate discrimination in Northern schools as well, but he is not sanguine. "It is applicable, but it's darned hard to prove (discrimination) and I don't know how much merit there is in trying," he declares. However, here are some of the specifics the commissioner considers sufficient to justify Title VI fund-withholding in the North: Using race as a basis for assigning teachers, drawing school districts or determining pupil "feeder" patterns between schools; depriving Negro students of equal access to special courses, whether college preparatory or trade school, and unequally apportioning tax funds between predominantly white and predominantly Negro schools.

Of course, the commissioner and most others in the Office of Education would prefer to take a positive approach in the North: Helping build educational parks, for example, or extending aid to local school districts that want to accelerate integration by busing pupils from city to suburban schools. The Office of Education has authority to grant such funds, though it cannot compel such steps to eliminate de facto segregation; in today's political climate it will continue to let the localities take the initiative. Mr. Howe views his office's rightful role as expanding the range of solutions available to the local schools, but not enforcing adoption.

In the South Mr. Howe's major test may come soon. The more his office presses local districts to accelerate the integration pace, the greater the potential for a renewed political explosion in the next Congress. Many Southern politicians now argue that formal adoption of an Office of Education approved "free choice" plan, encouraging Negro students to transfer to formerly all-white schools, is sufficient demonstration of desegregation. Mr. Howe's emphasis, however, is on performance, not promise.

Some unpleasant action cannot be avoided, depriving Southern school districts of Federal aid destined mainly for poor, Negro students. So far, only 32 of the South's 1,800 school districts have lost Federal funds through Title VI proceedings. Most were probably resigned to it, and some even make it a point of civic pride. But now, it's evident, Mr. Howe's office will probably have to haul several hundred Southern districts to formal fund-cutoff hearings for failure to comply with pupil-desegregation standards—or with faculty-desegregation requirements.

Faculty integration is probably the most explosive school issue in the South. Many school districts have taken only token steps, such as assigning Negro library aides, driving instructors or crossing guards to formerly all-white staffs. Many white parents are morally offended by the thought of Negroes teaching their youngsters. Yet increasingly it appears that, whatever student transfers take place, unless faculty segregation is eliminated the schools will continue to be identified as "white" and "Negro."

If free choice plans, no matter how vigorously enforced, still produce only token integration in many Southern districts, Mr. Howe must issue and enforce stricter Federal standards next year.

However, according to the best evidence to date, the controlling factor in achieving school desegregation is community concern, not Federal fiat. The South is now balky and belligerent and Mr. Howe has no illusions about sudden success. Yet the slower processes of social change, which are already occurring throughout the South, may ultimately prove that Mr. Howe accurately assessed the temper of the times.

almost $4 billion a year to elementary and secondary schools and institutions of higher learning. "I think the Federal Government quite properly should stay out of who is hired by the schools, what's taught in the schools and how schools are organized," he insists. But the perplexing problem is how to promote national purposes, especially improving the education of impoverished students, without producing deep Federal involvement in local school affairs.

Impediments to Improvement

Mr. Howe's hoped-for solution (like Mr. Keppel's) is a resurgence of the state educational agencies, which are receiving increasingly large sums from his office for self-improvement. But money alone won't overcome all the obstacles to effective leadership by the states. Among these:

Excessive attention to the routine details of school administration instead of broad educational policy; a rural bias, often stemming from the vested interests of vocational agricultural organizations; a political inability to influence the actions of powerful big city school systems even when urban interests dominate at the state capital.

There's often a conflict, too, between the aims of state administrators and Federal officials, and not only on civil rights. The thrust of much new Federal legislation is toward innovation in curricula and methods of teaching. But state and local officials often emphasize the traditional — remedial reading, hot lunches, guidance counseling.

Beyond the many Federal school aid programs recently enacted, Commissioner Howe has set his sights on new and broader legislation. His own goal: "General" school aid to help all states, regardless of disparate local tax resources, set the same educational standards for their residents. "I think we need a program in the long haul that recognizes . . . that the quality of education that kids receive should not depend on where they live," Mr. Howe declares. The wisest way to proceed is with construction help, he believes, not only because buildings are needed but because that minimizes Washington's involvement in the personnel and programs of local schools.

But general aid, to be meaningful, would certainly cost hundreds of millions of dollars annually. Last year Health, Education and Welfare Department officials tried to persuade the White House to propose a school construction program, but budget pressures prevailed. This year, the Vietnam war is wider, inflation concerns more critical and the outlook for big new domestic programs dimmer.

Furthermore, general education aid is less appealing to the politicians than "categorical" programs aimed at meeting specific needs. In the past the Office of Education achieved legislative success only when it narrowly defined Federal goals—educate poor kids, supply textbooks, train teachers of the handicapped. The more limited the legislation, also, the less the entanglement in controversy over Federal aid to private and church schools.

Most of all, though, the educational com-

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The Theater

King Saul of Israel

Javelin, a play by Owen Rachleff presented at the Actors Playhouse by Stella Holt. Amnon Kabatchnik directed.

New York City

William Marshall is an actor of stature in more ways than one. He is a big man of commanding presence, who has played De Lawd in a revival of "The Green Pastures," appeared as Othello and has had the title role in "Oedipus Rex." He also has a fine baritone voice and a command of the actor's art. These gifts stand him in good stead as the ancient Israelite King Saul in Owen Rachleff's new play "Javelin," but the play itself isn't up to Mr. Marshall. A Biblical costume drama, it doesn't really get out of its own way until the final scene in which Saul finds the way out of his frustration and despair.

Saul, whom the Prophet Samuel has selected to be king of Israel, is afflicted not only with a loss of faith but with Jonathan, an unfortunate son and an unfortunate character in the play. Jonathan, a role enacted by Andrew Colmar, is a sniveling and nasty-tongued fellow, and it's no wonder the spirit of the Lord departs from Saul with him around.

Saul's other affliction is David, his son-in-law who has slain Goliath and is now Saul's army commander. Everyone loves David, including Jonathan, but Saul is deadly jealous of him and tries to kill him with his javelin. Mr. Marshall makes the jealousy palpable, and Andrew Jarkowsky as David is sufficiently convincing in his role in an Eagle Scout sort of way.

But the play suffers from a diversity of styles among the actors. Mr. Marshall is grand and sonorous, but Muni Seroff playing the Prophet Samuel has an accent which robs the role of much of its dignity. Mr. Colmar as Jonathan is mostly just a modern brat. Elaine Hyman, playing Michal, Saul's daughter and wife to David, is a nice, refined handmaiden to the king but doesn't seem to fit the part too well.

Mr. Marshall does pull the play together in the final few moments. But it is too little and too late.

—RICHARD P. COOKE

Public's Confidence Lost by High Court

By LOUIS HARRIS
Director Harris Survey

The U.S. Supreme Court has become a highly controversial branch of government and is able to muster an over-all vote of confidence from less than half the American people. The public, whatever constitutional principles may be involved, is most critical of two key decisions: the banning of prayers in public schools and the refusal to accept confessions made by suspects before they can obtain legal counsel.

In a special survey of a cross-section of the American people, the public gives a negative rating to the job done by the nation's highest court by 52-48 Pct. This is largely the result of the court's extreme unpopularity in the South, although the Midwest approximates the national average of disapproval.

"Popular" decisions by the court include three landmark cases decided in recent years. For example, by 3 to 1, every group in the population specifically supports the "one-man, one-vote" decision which required many states to reapportion legislative districts on a population basis.

Furthermore, with the exception of the South, the decisions to outlaw segregation in the schools and in public accommodations meet with close to 2-to-1 public approval.

A sixth decision—that which forbids the State Department from denying passports to Communists — splits the public almost down the middle.

A consistent pattern in the results reveals that younger people, Negroes and the better educated tend to back the court while white Southerners, older people and the less educated tend to be the court's severest critics.

The special cross-section of the public was asked:

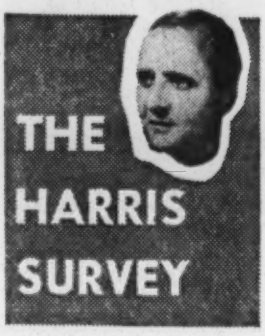
"How would you rate the job the U.S. Supreme Court has been doing—excellent, pretty good, only fair or poor?"

RATING OF COURT

	Good-Excellent Per Cent	Only Fair-Poor Per Cent
NATIONWIDE	48	52
By region		
East	52	48
Midwest	48	52
South	35	65
West	55	45
By age		
Under 35	58	42
35-49	51	49
50 and over	42	58
By education		
8th grade or less	44	56
High school	46	54
College	53	47

A young husband in Columbia, Miss., summed up his position in this way: "I have two school-age children. Therefore, I don't like what the court is doing—period." Said an Illinois housewife: "I'm disturbed about this bending over backward to take care of the single individual. What about the majority who want the opposite?"

The court, however, is not without supporters. "They're trying to eliminate some of the bigotry," said a 64-year-old woman from Los Angeles. "They have put the churches on their toes," added a neighbor. "They've stuck their necks out and taken stands when they could have avoided it."



Here is the roster of approval and disapproval by the public on six key Supreme Court decisions:

SIX KEY DECISIONS

	Approve Per Cent	Disapprove Per Cent
Reapportionment: one man, one vote	76	24
Desegregation of schools	64	36
Desegregation of public accommodations	64	36
Allowing Communists passports	49	51
Disallowing confessions without counsel	35	65
Outlawing prayers in classrooms	30	70

In the South, only the reapportionment decision meets with public approval. The public accommodations decision, upholding the 1964 Civil Rights Act, is opposed better than 2 to 1. It is significant, however, that the 1954 court decision on school integration is now supported by 44 pct. of all Southerners, indicating that opposition tends to dwindle with time.

By contrast, Negroes heartily support five out of six of the key decisions. They are heavily influenced by the forthright position of the court on racial equality, but they are opposed to the school prayer ban by 3 to 1, indicating the strong religious feeling that exists in the Negro community.

Young people appear to be far more aroused about individual civil liberties than their elders. This is undoubtedly a reflection of the feelings of this younger generation that non-conformity is vital to a free society. Clearly, the issue of dissent has split the generations in America in the mid-1960s.

Paint-Tossing Costs Assessed

MELBOURNE, Autstalia — (UPI) — A magistrate has ordered two brothers to pay nearly $2,000 damages to U.S. Secret Service agents and others whose chothes were damaged during a paint bomb attack on President Johnson.

The magistrate ordered John Langley, 21, a sales representative, and his brother David, 18, to pay voluntarily into court $1,939 to compensate persons whose clothes were damaged.

In addition he fined them $761 and placed them on probation for two years on charges of wilful damage.

Confusion, Unlimited: Gubernatorial Election Puts Georgia in Muddle

Nov 14, 1966

Nobody Wins; Business Frets About the Effect on Industry; But 1946 Frenzy Was Worse

By KENNETH G. SLOCUM
Staff Reporter of THE WALL STREET JOURNAL

ATLANTA — The sign is scrawled in black paint alongside the expressway coming into town. "Never have so few," it says, "confused so many."

It's obviously a political sign.

The "few" could be the two major candidates in last week's gubernatorial election, a pair of segregationists who didn't offer the voters much of a choice and who ran neck-and-neck. Or it could be the 57,832 voters who wrote in the name of a third candidate. Or it could be three Federal judges who say the state constitution probably violates the Federal Constitution.

The "many" is easy—everyone interested in or affected by the Georgia election. Some businessmen say Georgia industry may be especially hurt by the confusion.

If there's one thing that's certain, it is that the situation is uncertain. The state has held three elections — a Democratic primary, a primary run-off and the main event—yet it has no governor-elect because nobody received a majority in the Nov. 8 election. It has machinery to deal with just such a situation—but the Federal court is expected to say the machinery is out of date.

"Great Guns!"

At least 14 lawyers, the three judges and a battery of state officials are trying to figure a way out of the dilemma. The matter may end up before the Supreme Court of the United States. "The present situation is chaos erected into a system—without any loss of the chaotic and without any system," says Ivan Allen, the mayor of Atlanta. What does the state plan to do? "Lord only knows," answers Ben Fortson, the secretary of state for the past 21 years.

Current speculation among attorneys in the case is that the state might order a run-off of the two top candidates—if it can, which is legally questionable. If not, the Federal court may do so. But the plaintiffs in one of two court suits already filed insist that any run-off include write-ins, the thing that botched up the situation in the first place. "Great guns, we could have an election every month!" says a beefy Georgian queried in an elevator here.

Georgia is one of the few states that requires a gubernatorial candidate to receive a majority of the votes cast in order to win. Last Tuesday, Republican Howard (Bo) Callaway and Democrat Lester Maddox each received about 47%; former Gov. Ellis Arnall received about 6% as a write-in candidate.

The state constitution calls for the legislature to step in and choose a governor from the two leading contenders, but the Federal court indicated in a "tentative" opinion on Friday that such a move would violate the one-man, one-vote principle laid down by the Supreme Court. The court is expected to issue its formal opinion this week.

Besides, there is a current lawsuit to force the legislature to reapportion itself before it picks any governor, further confusing the matter. Opponents of the let-the-legislature-pick-the-governor camp say it would be unlawful for a malapportioned body to name the governor. (The opponents are primarily Republicans, because the legislature is overwhelmingly Democratic. "I like to think Mr. Callaway would have a good chance in the General Assembly," says one Republican legislator, "but . . . Mr. Maddox probably would win." It's believed Mr. Callaway has a good chance of winning a two-man run-off, however.)

Shades of 1946

Where does that leave the matter? Hanging. "The people have voted in three elections for governor this year, and before they are called upon to vote again, the Supreme Court of the United States should hand down a decision," says Arthur K. Bolton, the state attorney general. He says he will take the matter to the High Court if the lower Federal court's formal ruling follows the lines of its tentative decision.

Actually, things could be more confused. Indeed, the current situation will have to become a bit more muddled before it can match the chaos surrounding the 1946 Georgia gubernatorial election. In that election, Eugene Talmadge was elected governor, but he died three weeks before he was to assume office.

In rapid-fire order, Gov. Arnall—whose term was running out—refused to budge from the governor's chair until a successor was elected, Lt. Gov.-elect M. E. Thompson said voters "expect me" to be governor, and Herman Talmadge, now a U.S. Senator and then the 33-year-old son of the deceased governor-

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Confusion, Unlimited: Gubernatorial Election Leaves Georgia in Muddle

Continued From Page One

elect, claimed the governorship on the basis of 675 write-in votes.

In the subsequent legislative fight, the Georgia assembly gave the nod to the young Mr. Talmadge. Mr. Arnall, however, wouldn't move out. On Jan. 15, 1947, the day after the scheduled inauguration, the state had two men acting as governor. Mr. Arnall was operating out of the governor's office and Mr. Talmadge was operating out of the executive secretary's suite. Each was making appointments, receiving calls and occasionally dissolving bodies established by the other.

Then in the dead of night, Talmadge forces, in what Mr. Arnall compared with a military coup d'etat, changed the locks on most doors and took over the governor's office in the capitol and the governor's mansion. They posted armed guards at the doors. Mr. Arnall set up office in the capitol rotunda, but lost even that when a 237-pound, pro-Talmadge legislator evicted him with the insult: "Ellis, you remind me of a hog in the slops. You've got your head in the trough, and you can't stop."

In the hectic days that followed, Mr. Talmadge placed civilian guards at the state arsenal, a bank sued to determine to whom it should release state funds and the Georgia treasurer clamped a hold on all finances. After numerous double appointments—the state had two directors of the highway department and two directors of the state patrol—the state's highest court ruled on March 20 that the legislature was in error in selecting the governor, and the office went to Lt. Gov. Thompson.

State officials say there isn't any chance the present situation could deteriorate to the level of 1947. "The state has come a long ways since those days," says one.

Nevertheless, at least some businessmen here are concerned about the current mess. "There's no doubt in our minds that we, the Georgia image and the general appeal to industry have been hurt by the situation, although we hope it can be overcome," says G. Paul Jones Jr., a Republican who is vice president of Macon (Ga.) Prestressed Concrete Co. "We live mostly on new industry and expansion of existing business," he says, and he notes: "Business likes responsible, stable government."

"I would have to express the fear that we have damaged the image of Georgia," adds William E. Uzzell, president of Royal Crown Cola Co. "This sort of thing could set back" the state's effort to attract industry.

Leonard Reinsch, president of Cox Broadcasting Co. and long a figure in national Democratic circles, agrees that "unhappily, the state has not reflected its best side."

Other business leaders, sticking to the party line, insist the state would be damaged only if their man loses. "Maddox has built a battleground and the warriors are waiting to step out on the field and fight," declares Wallace L. Bryant, a Georgia advertising man and Republican legislator. "If he is elected, no industry will come to Georgia, and I don't blame them." Mr. Maddox has won national attention with his pistol-pointing, ax-handle-waving refusal to integrate his restaurant here.

Mills Lane, president of Citizens & Southern National Bank, condemns the whole campaign for "degrading into a race of personalities instead of sticking to fundamentals." He adds: "My own conclusion is Georgia is better off in the long pull being part of the Democratic Party."

Georgia may have a Democratic governor for a while longer than expected. If the current matter isn't resolved before Jan. 10—the scheduled inaugural date—Gov. Carl E. Sanders, a Democrat, has said he will continue to serve.

EV - Personal 10 DEC 1966

RECENT DEVELOPMENTS in AFL-CIO policies and programs were spelled out for the labor attaches of other countries at a meeting in Washington. Shown at the session are, from left, J. J. Watson of Great Britain and Lukas Burkhardt of Switzerland with three AFL-CIO staffers: Education Dir. Walter G. Davis, Intl. Affairs Dir. Jay Lovestone and Harry Goldberg of the Dept. of Intl. Affairs.

Missouri Teamster

Serving 45,000 Missouri Teamsters and Their

VOL. 4, NO. 12 OFFICIAL PUBLICATION OF TEAMSTERS JOINT COUNCIL 13, ST. LOUIS, MO. DEC. 23, 1966

Sinatra To Head Union's Super-Show Feb. 8

Jimmy Hoffa: They Never Let Him Flower

By JAKE McCARTHY

Editor, The Missouri Teamster

It was just ten years ago, in the city of Detroit, that Harold Gibbons promoted a giant testimonial dinner to make a man's name better known across the land. The man was Jimmy Hoffa. It was for that occasion that a booklet was written called *The Name is Hoffa,* which was, believe it or not, the first research into the history of the man, and he was already 43. I had the honor to write it.

Ten years ago, Jimmy Hoffa had put together (in 1955) the historic 23-state Central - Southern States over - the - road and local cartage contracts, a mammoth accomplishment which led by 1963 to the first national trucking contract. It was one of many brilliant achievements, before and since. But he was still a regional figure, standing in the shadow of the late Dan Tobin and the flamboyant Dave Beck, and not yet a name on everybody's tongue. It's been a fast ten years.

Hoffa still clings to a slender thread of hope for freedom, but the Supreme Court ruling of last week (see page 2) makes it seem almost hopeless.

Bobby Kennedy went out to get Dave Beck first. Beck was no minor figure, though history has managed to forget him quickly. He was an innovator of the first order and the Teamster structures of area conference and trade division came out of his fertile mind. Beck knew something about organizing, too, and IBT membership zoomed during his brief dynasty.

But by 1956, Dave Beck had become a financier above everything else, and had lost touch with his people, and when Bobby Kennedy went for his veins, he bled to death because there was nobody to apply the tourniquet.

He was a pathetic figure by the 1957 convention, which he handled ably as his swansong, but he couldn't drown out the sound of the roaring crowds of yesteryear. When Jimmy Hoffa took his place, Beck couldn't quite grasp how quickly a man dies.

Even after the convention was over, that final flushed night of victory for the Hoffa team, old Dave sat there in the lobby of the Eden Roc Hotel looking for someone who would listen. Some young turks of the newspaper game got hold of him until the late Fred Perkins, the Scripps-Howard labor writer who had a heart as big as the world, intervened. He reminded Beck of a fictional meeting he had upstairs, and walked him to the elevator, and then came back to ask if the boys hadn't "gotten tired of picking the flesh off a dead man's bones."

Hoffa's flesh was never for the picking. He wasn't Bobby Kennedy's original target — he stumbled over Hoffa almost by accident, and their encounter became a classic tragedy. When Bobby couldn't knock him off in the McClellan hearings, as he had so many ordinary guys who didn't understand the brutal game of power, Jimmy became Bobby's cause. But Kennedy knows he encountered a big man, and in the final analysis, he won unfairly. It is a tainted victory.

I've had the opportunity to view Jimmy Hoffa close up in the years since 1954. Between the 1957 and 1961 conventions, I was his press secretary, I suppose you would call it, and those were the heavy days of the McClellan hearings and of the monitorship and of the vultures who hovered over, waiting for this union to expire. Instead it breathed more heartily than ever before. Its 1961 convention delegates thumbed their noses at the phony whited sepulchres of our society, and re-elected Jimmy Hoffa by acclamation.

Through those four stormy years, you could see the disproportion in the whole ugly conspiracy to destroy. Hoffa and his enemies were always talking about two different worlds. Kennedy and the rest kept talking about the jungle that gave birth to Jimmy Hoffa and would have kept him entangled had he been a lesser man. Hoffa was talking about the worker and the power the movement needs to save the have-nots from the kind of death the exploited suffer every day. Sometimes the world of power and the world of the jungle met and intertwined, but they were not the same.

In the end, the jungle law prevailed, and ironically enough it was Hoffa's enemies who used it on him. They had the clout, as it turned out. The average "little guy" in America is taught that the system has his best interests at heart and he is naive enough to believe it, and so he goes along with the big guys, down the road to the animal traps.

Jimmy Hoffa had to go because he was a symbol of the seventh-grader who could beat the system and lead the animals to freedom. It came to be that simple.

Jimmy Hoffa, born in the jungle, was not secure enough to like anybody or trust anybody. He knew how to tear at your guts and make them bleed. It was part of his character, fashioned after the jungle, to put you down, to devour you if he could. He did not know how to accept your offer of allegiance to what he believed in; he could not handle intimacy; he could not believe in anyone but himself.

But who can fault him in these things? Because they never let him live, they never let him flower. Had they, he might have walked into the clearing, because he had the inner stuff to love and be loved. He had the feel for what it is all about. He would sacrifice himself all the way for what he believed in. He tried many times to reach out, and when he couldn't really say it, he could fumble for some gruff, oblique way of saying thanks.

There were some in July of 1966 who opposed what Jimmy Hoffa set out to do in the last convention. He set out to make the union his own, his private property. Some felt — they were never counted — that this great, free-wheeling union needed to be able to breathe and grow as a free society of men of labor, where new leadership emerged as it does in every life cycle.

But it was not opposition to Jimmy Hoffa, either as president or man, nor to his personal choice as his potential successor, Frank Fitzsimmons of Detroit, because Fitz is a kind and able man. The issue was different. It was whether the union belonged to one man, or to all.

Jimmy Hoffa, through all the hard building years that went before, came to believe that he and the union were almost the same entity. It's not too hard to see why. He gave everything he had to the union — it and his family were his whole life — and he has served all of us well.

Now the conscience of society carries a heavy burden, because it knows a wrong was done, and if it does not know it yet, it will know it in the light of history.

Let us hope that one can still raise a voice of dissent to procedure or technique or alliance without the illusion that he also opposes the man. Because you can't oppose Jimmy Hoffa as a man. He stands alone as a personality and as a figure in human history. He deserved more accolades than the propaganda-bitten people of our land were permitted to know. And he didn't deserve what he got.

Eleven years ago, Jimmy Hoffa gave a speech in which he said "no matter what you hear, there is no short cut, there is no easy way. It's hard plowing. Every goddam inch there is a stone." The world never allowed him to forget it.

Charity Show Will Benefit At Least 15 Organizations

The Teamsters Annual Charity Show in St. Louis will be held Wednesday evening, February 8, 1967, in Kiel Auditorium Opera House. Frank Sinatra will head the list of stars appearing in a three-hour spectacular, it was announced this week by Harold J. Gibbons, president of Teamsters Joint Council 13.

He said the union hopes to raise more than $250,000 for distribution to 15 or more charities.

Joining Sinatra in the super-show will be Dean Martin, Sammy Davis, Jr., Milton Berle, Herb Alpert and the Tijuana Brass, Connie Francis, Trini Lopez, Kaye Stevens, Pat Henry, the Step Brothers, the Little Steps, and Nelson Riddle and his Orchestra.

A similar show was held on June 20, 1965, for the Father Dismas Clark Foundation. Gibbons said ticket prices for the forthcoming show have been scaled somewhat higher and the union expects this to be the biggest single fund-raising event ever held in St. Louis.

"This show could rightly be said to represent a million dollars worth of talent and the participants are generously donating their services to this great cause," Gibbons said.

Ticket prices are scaled at $250 for front orchestra; $200 for boxes; $150 for mezzanine; $100 for balance of orchestra; $50 for front balcony; and $25 for balance of balcony. Holders of $250, $200 and $150 tickets will also be entitled to attend a champagne supper in the Khorassan Room of the Chase-Park Plaza Hotel following the 8 p.m. show. All contributions are tax deductible.

Gibbons said orders for tickets could be placed by calling TOwnsend 5-3030 or MOhawk 4-9800 or by writing "Teamsters Annual Charity Show," 1641 South Kingshighway Blvd., St. Louis, Missouri 63110.

He said the show would also be carried by closed-circuit television to a number of Eastern cities including Chicago and New York. Other cities are expected to be added in the next few weeks.

Charities which will benefit from the show include: St. Louis Variety Club, for its various children's projects; the Metropolitan St. Louis Boys' Club; the St. Louis Chapters

(Continued on Page 2)

Local 611 Wins 2 New Agreements

Teamsters Local 611 has completed three year agreements with substantial retroactive pay for some 165 members employed in the potato chip industry and for 28 transport and feeder truck drivers.

Back pay packages of approximately $440 were awarded to each transport and feeder truck driver, according to Howard Logan, secretary-treasurer of the union. The retroactive pay was awarded on a 57c hourly increase retroactive to September 1, 1966.

The transport and feeder truck drivers are employed at the Continental Baking Co., bakers of Wonder and Hostess products, Ward Foods, the American Baking Co., bakers of Taystee and Grennan brands, and Freund Baking Co.

In addition to the immediate 57c increase, two 10c raises will go into effect on the anniversary dates of the agreement, totaling a 77c hourly wage increase, plus a guaranteed work week of 45 hours. The drivers had previously been on a 48 hour week.

The potato chip agreement will cover Local 611 employees at Kas,

(Continued on Page 10)

New Slate Wins Office In Local 603

A slate headed by president John Strecker and secretary-treasurer Ed Lambert won office in Teamsters Local 603, Dairy Industry Employees, in a surprise victory over the incumbent officers in heavy balloting last Wednesday and Thursday at 4141 Forest Park.

President William Godfrey and secretary-treasurer John O'Malley were defeated in the union upset.

Other members of Godfrey's slate were also defeated in the Local 603 election.

Vice president Tom Kenney was defeated by Elmer Fogelbach; Recording Secretary John Dobbs was defeated by John Fischer; and trustees Sam Valenti, Harry Mertz, and William Adams were defeated by Audrey Frieze, Warner Clemens, and Larry Gilchrist.

New officers of Teamsters Local 603 are to be installed in office at the union's first membership meeting in January scheduled January 12, at 8 p.m. at the union headquarters at 4141 Forest Park Blvd.

Godfrey, formerly a business representative of the union, had held the office of president of Local 603 since 1961. He has also served as a member of the executive board of Teamsters Joint Council 13.

O'Malley took the office of secretary-treasurer after the death of Reed White, who held the office, in 1963.

Local 603 represents milk and dairy industry drivers and inside dairy employees.

Nomination And Election Notices
See Page 11

New officers of Local 603 met with Joint Council officers after their election victory last week. Left to right are: Larry Gilchrist, Elmer Fogelbach, John Strecker, Joint Council president Harold J. Gibbons, Edward Lammert, Council secretary-treasurer Pete Saffo, John Fischer, and Council vice president Edwin D. Dorsey. Trustees Clemens and Frieze were not present.

WSJ 6/1/66 UAW

Unions Still Face White Collar Snag

* * *

By LAURENCE G. O'DONNELL

LONG BEACH, Calif.—When the United Auto Workers Union put Miss Olga Madar on its executive board recently, the move was touted as another step in the long march of the fair sex toward equality—and a blow against one form of "discrimination."

But a number of top officers of the giant union, who pushed for election of a lady, had other high hopes in mind: They figured the addition of a woman to the 25-man executive board might bolster an organizing effort that has showed some signs of flagging lately—the UAW's white-collar drive.

The circuitous reasoning goes something like this: Many of the unorganized white collar workers of America are female. Now a big union pushing white-collar organizing has an executive on its board who is sympathetic to women's problems. Therefore. . .

In recent weeks, the UAW's push to recruit technical, clerical and professional workers has received a couple of disappointing setbacks. White-collar workers at Ford Motor Co. facilities in Cleveland and Nashville, Tenn., rejected bids by the UAW to be their bargaining agents. These elections were the first two since the UAW started its campaign to organize Ford's 30,000 white-collar employes.

Walter P. Reuther, UAW president, dusts off the Ford defeats, contending management "brainwashed the workers in both places." He also says Ford and General Motors Corp., whose white-collar workers are also unorganized, are "just delaying the process" of white-collar organization, which he considers inevitable.

* * *

But others within the top levels of the UAW aren't so confident. True, the UAW has done better than other unions in organizing white-collar workers; it has organized 8,000 Chrysler Corp. workers and won 60% of its white-collar elections over the last 30 months. However, the total is still tiny—35,000 workers or only 2% of the UAW's entire membership. Also, the Chrysler organizing has taken some 20 years.

One resolution passed at the last UAW convention called on negotiators in their blue-collar bargaining to seek contract clauses that management "not resort to vicious anti-union, anti-employe tactics" during white-collar organizing drives.

During the recent Ford elections, for example, UAW officials charge that management button-holed every worker within the last few days before the elections. "If we had just had a part of that kind of contact, we'd be in business," says one UAW staffer.

In the Cleveland election, the UAW tried an unusual tactic to offset management's "advantage." It mailed each worker a seven-minute phonograph record, on which Mr. Reuther gave the UAW's side of the organizing argument; the record was slated to arrive the same day workers were "subject to a 'captive audience speech' by the plant manager," says Douglas Fraser, director of the UAW's white-collar program, called TOP (for technical, office and professional).

UAW officials also got no encouragement from another development in the Cleveland election. The organizing bid was apparently rebuffed by most or all 21 Ford college co-op students. Some of them campaigned hard against the union, and their votes may have meant the difference in the 74-62 defeat. These students work part of the time and study the rest. "We couldn't even get them to sit down and talk to us," says one UAW man.

* * *

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* * *

Walter Reuther and his associates do take heart that long-range trends in the economy will lead an increasing number of white-collar workers into union ranks. Technology, says a UAW report, is "fast blurring distinctions between white-collar and blue-collar employment" and "is playing havoc with traditional job classifications, with old comforts and certainties."

Yet there is realism within the UAW about how fast this may take place. Organizing white-collar workers is "one of the most complex and difficult challenges confronting the UAW and unionism generally," the report adds. Many workers, it continues, "still have a touching faith in management's benevolence" and persist in believing "the myth that white-collar workers are not workers but part of management."

At UAW headquarters in Detroit, there is little argument with the assessment of Carl Snyder, Eastern Michigan University economist, that the UAW's effort in the white-collar field has been slow and relatively ineffective. One of Mr. Snyder's findings: 59% of white-collar non-union workers he surveyed in certain Detroit auto plants "believed that joining a union would reduce their prestige."

Nevertheless, the organizing drive is continuing. The UAW is currently trying to organize 160 of General Motors' office workers at its McKeesport, Pa., stamping plant. Whether the use of Reuther records or the elevation of Miss Madar to high UAW rank stirs excitement remains to be seen. For the time being, the UAW concedes it's an uphill struggle.

1966

BOOKS

BU Public Employee Union

'Teachers and Unions'

Not the Whole Story

Teachers and Unions
by: Michael H. Moskow
(University of Pennsylvania, 1966)

Reviewed by RICHARD HIXSON
AFT National Representative

The three major problems which limit the success of **Teachers and Unions** are prematurity of publication, scarcity of sample, and unsuitability of vehicle. Rather curiously, in the study's foreword, Herbert Northrup, chairman of Drexel Institute's Department of Industry, comments on these very factors, but I'm sure not with critical intent. Nor can I agree with Northrup that this is a "major" study. One wonders why, when the scholar feels compelled to write about a particular development of education, he always has to throw in everything, including the chem lab's Bunsen burners.

Moskow says that one of the purposes of his study is: "... to determine whether collective bargaining as developed in private employment can be used in the environment of public employment . . ."

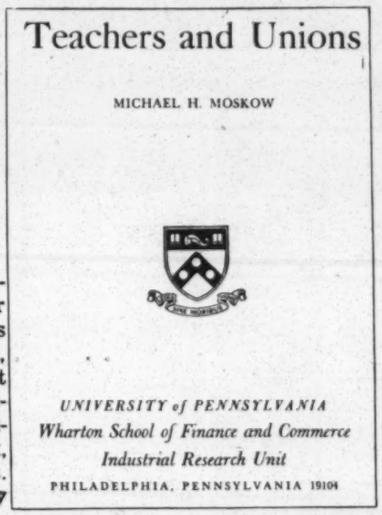
Though we feel subsequent events have now made Professor Moskow's study academic in the truest sense, he cannot be faulted for events subsequent to its publication, but why must there be so much well-traveled territory explored once again?

Moskow has also said that he hoped "to determine how collective bargaining is currently being used in a sample of school districts." It is in this area that the book is more successful than in determining whether or not collective bargaining can be used in the public school environment. However, it would have been better if Professor Moskow had waited at least until the end of this year. His sampling might have had more meat to it.

The section entitled "Legal Aspects of Collective Bargaining for Public School Teachers" presents a survey which is useful as such, but it does not take into account the effects of violation of no-strike laws by teachers in Minneapolis, Pawtucket, Hamtramck, Highland Park and other places. This is a great deal of territory to have been omitted.

SINGLE SALARY SCHEDULE

In Chapter IV, "The Labor Market for Public School Teachers," much of the information is unnecessary for the purposes of this study. However, the attack on the single salary schedule is interesting. Apparently, according to Professor Moskow, the single salary schedule forces administrators to "provide extra inducements to certain teachers by offering special opportunities to teach summer school, instruct in adult evening schools, or supervise playgrounds. In some cases superintendents have exaggerated a teacher's experience to place him higher on the schedule." We gather that the administrator does this solely because of the evil of the single salary schedule. We would suggest that there are more plausible reasons for such behavior. Union members with even short experience recognize the technique for what it is.



Chapter V, on "Teacher Organizations," contains an unnecessarily cursory treatment of the subject. It misses the boat on the key difference between the NEA and AFT, which is not just administrator membership. The AFT is a movement; the NEA is not. It is a bureaucratic institution.

EXCLUSIVE REPRESENTATION

I violently disagree with Moskow's conclusion in Chapter VI, "Exclusive Representation," that when many decisions affecting salaries and working conditions of teachers are made at state level, exclusive recognition at the local level loses much of its significance. For example, even though this happened after Moskow wrote his book, board action taken against the single bargaining agent in Ecorse, Mich., caused the school system to lose $500,000 in state aid and to shut down summer school (in which federal aid played a significant part). Without a single agent at the local level, none of the branches of government would have moved.

Moskow says in Chapter VII, "Appropriate Bargaining Unit," that an important consideration is the essentiality of the public interest in regard to the determination of the bargaining unit due to cost. Actually this is a very negligible factor. The most important factor is community of interest. When this is considered as the determining factor, the cost effect upon the public is not really a factor. Arguing for "one large unit" on this basis is unimpressive.

Argument as to whether a principal is a teacher or a supervisor is now all over. It is in Chapter VII, "Joint Decision Making," where the limitation of sampling really hampers. Much of the treatment of this subject seemed to us to be nebulous. Some of the conclusions are obvious, some almost silly. For example: "Although significant differences exist between the environments of private employment and public education, the need for joint decision-making in public education will often exist."

Certainly by 1966 there should be enough material available to determine the adverse effect of strikes on children (see p. 209), but in Chapter IX, "Bargaining Power," it is missing. Too, there is the curious treatment of sanctions in the Waterbury case. I couldn't tell whether it was the sanctions or the "withholding of services" from city by teachers which worked in that case.

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Factory-Bias Fight

U.S. Prodding Plants To Merge Negro, White Job Promotion Lists

Move Could Allow Negroes To 'Bump' Whites Out of Some Desirable Positions

Many Unions, Firms Resist

By JAMES P. GANNON
Staff Reporter of THE WALL STREET JOURNAL

EL DORADO, Ark.—John R. Dykes has worked 17 years at Monsanto Co.'s chemical plant here, loading heavy sacks of nitrogen fertilizer onto rail cars and trucks. Now he wants a shot at one of the easier, better-paying jobs in the plant. But only white workers hold those jobs now, and he is a Negro.

Mr. Dykes and 25 other Negro laborers at Monsanto have filed suit in Federal District Court here seeking an order that would open up traditionally white jobs at the plant to Negroes, who now do only common labor. "I started in 1949 as a laborer and that's what I still am; that's the whole problem," says the husky, 42-year-old Mr. Dykes, a high school graduate.

The problem he complains about is one troubling companies, unions, white and Negro workers in an increasing number of plants and communities, particularly here in the South. It has developed into a growing struggle pitting Negro aspirations for advancement against white employes' determination to hold positions and promotion opportunities secured them by traditional industry practice and by formal labor contracts.

Seniority Practices the Problem

The struggle stems from efforts of the Federal Government and civil rights groups to enforce the equal employment provisions of the 1964 Civil Rights Act. The law was intended to root out racial discrimination in every phase of employment, including the little-understood system of worker rank called seniority.

The problem, which experts call much more complex than other employment segregation issues such as discrimination in hiring or segregated plant facilities, is how to unravel the threads of discrimination long intertwined in many seniority systems without destroying the entire fabric of those systems.

Traditional practices in many plants and industries have limited Negroes to certain departments or types of jobs, governed by a seniority list, or line of promotion, separate from the lists used in other departments or from the lists of jobs that whites hold. It's true, of course, that maintenance of numerous seniority lists in one plant may be dictated by entirely legitimate reasons such as skill requirements and experience. But often the two considerations—legitimate and racial—are bound up in one seniority system.

Separate seniority arrangements based on race clearly violate the 1964 law. But in many cases, it's not clear how segregated lines can be merged or connected to give Negroes real opportunity for advancement without washing out or diluting seniority rights earned over many years by whites.

The Touchiest Task

The seniority snarl is probably the most touchy task engaging the Federal Equal Employment Opportunity Commission, created by the 1964 law. The EEOC has achieved limited success in winning voluntary changes in some seniority systems it considered discriminatory. But it still is groping for a policy to apply broadly.

"We have no policy on seniority as such," says EEOC Chairman Stephen N. Shulman. The complex problem "doesn't lend itself to a proclamation," he adds.

Still, EEOC conciliators seeking to settle seniority discrimination charges are proposing some solutions that call for extensive, sometimes racial, changes in current practices. In extreme cases, these call for demotion or "bumping" of whites to open jobs for Negro victims of seniority discrimination. In less difficult cases, proposals merely call for Negro equality in future promotions—where expanding business reasonably assures there will be sufficient promotions.

In any case, the EEOC has no power to compel any changes.

But Federal courts do have such power, and some Negro employes are seeking judicial mandates to rearrange seniority systems. Many cases, including the Monsanto suit, are being litigated with the aid of the NAACP Legal Defense and Education Fund (an organization separate from the National Association for the Advancement of Colored People) which has filed some 35 employment discrimination cases, about half involving seniority.

Among the seniority discrimination suits are charges filed against Avco Corp., P. Lorillard Co., H. K. Porter Co. and the St. Louis-San Francisco Railway. The Frisco denies the charges; Avco, Lorillard and Porter decline to comment on the suits while they are in the courts.

To the Supreme Court?

Though all the seniority court cases are in early stages, the issue is expected to wind up at the U.S. Supreme Court. "There's no end of unanswered legal questions here," says a top labor lawyer.

In attacking segregation in seniority, the EEOC is taking on an uncommon alliance of union chiefs and businessmen. "Management and labor are together on this more than on any other question," says one of the EEOC's five commissioners. "These seniority agreements have been arrived at through the blood of bargaining. They're almost sacred."

To many managers, upsetting traditional seniority practices raises the specter of undermining plant efficiency. They fear that low-skilled workers would be thrust into jobs they are unprepared to do while experienced workers would be bumped down the ladder to menial jobs.

What makes seniority a sacred cow to labor is its all-embracing influence on the worker's job and income. A small difference in seniority rank may determine whether the employe works days or nights, whether he is pro-

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WALL STREET JOURNAL, T

The Bookshelf

Machiavelli's Ideas Will Ever Haunt Man

* * *

You have really made it, for good or bad, if your name becomes a universal adjective. Consider "Machiavellian" which is, paradoxically, unfavorably flattering. It flatters by suggesting wiliness, cunning, skill at political maneuver; it is unfavorable because to most people it connotes unscrupulousness verging on the diabolical—so much so that popular myth sometimes dubiously associates his name, Nicolo, with "the old Nick."

For centuries Nicolo Machiavelli (1469-1527) has fascinated men and much of the time horrified them. Many myths have been stripped away in this century, allowing the real man and thinker to stand before us. His genius in political science has been viewed objectively.

The trouble was, he rubbed our noses in unpleasant truths about human nature and pointed out the disturbing fact that states, as such, are not moral entities. None of this was truly new but he stated it with unsparing candor and juxtaposed the nature of man and the nature of states in a stark way.

An interesting book, "Machiavelli," by Giuseppe Prezzolini, studies this Renaissance Florentine in an excellent feat of thoroughness and conciseness. Prezzolini, now 75 and an American citizen, was Professor of Italian literature at Columbia University for some 50 years. This book was written in Italian and published in Italy in 1954 under the title "Machiavelli anticristo." It is translated by his wife, Gioconda Savini.

* * *

Prezzolini has organized his book on the premise that a man's real life is his work and influence. "For many thinkers their real life begins after their death. This is true of Machiavelli who exists in his works. Machiavellianism came into being when Machiavelli died. While he was alive his doctrines did not elicit either astonishment, nor hatred, but only a slight murmur."

He begins, therefore, with the longest single section, "The Doctrine," and proceeds to his "Precursors," from Plato to Dante. In no sense must "precursors" be taken as inspirers, unless in a negative way, for Plato and Dante were both in part idealists and Machiavelli rejected speculations on what men and states should be to take an objective look at what they are. (We must not forget such attempted objectivity has its limits.)

Prezzolini surveys all Machiavelli's works. Then follows a brief but absorbing biographical section, and another on his friends and contemporaries. The rest of the book examines reactions to and influences of Machiavellianism in Europe and among various groups of thinkers, ending with a statement of his thesis that Machiavelli is our contemporary. Some of this is dry and in the later sections there is more than most general readers will want. But the book is remarkably compressed and he breaks it up into many short, numbered, titled sub-sections, often of only two or three paragraphs, that make its information remarkably accessible, easy to absorb and handy for reference. It is a fine book and an important one to ponder.

* * *

It is easy to see why Machiavelli's most famous work, "The Prince," has been called a dictator's handbook. He is a statist, who argues that if there is to be a state, then its interest must transcend the individual's. The state is amoral: What tends for its security and perpetuity is good, what threatens its dissolution is bad. Evil is justifiable in the interests of the state and therefore he who heads the state, call him prince or president, must not be swayed by ordinary consideration of ethics, even if as a private person he would observe them.

Machiavelli never justifies evil for an individual's personal gain or desire. Virtue is good in a ruler when it is a workable option, otherwise not. "Thus it is well to seem merciful, faithful, humane, sincere, religious, and also to be so; but you must have your mind so disposed that, when it is needful to be otherwise, you can change to the opposite qualities." Because: "How we live is so far removed from how we ought to live that he who abandons what is done for what ought to be done will rather learn to bring about his own ruin than his preservation. A man who wishes to make a profession of goodness in everything must necessarily come to grief among so many who are not good." The argument is extensive, but that is its heart.

The irony is, Machiavelli was a loser in Florentine politics who wrote in his enforced inaction. He complained in a letter, and justly, "he who has been honest and good for forty-three years, as I have, cannot change his nature; and as a witness to my honesty and goodness I have my poverty." Not heading a state, he did not practice the cunning he recommends to princes.

* * *

The man he admired most was Caesar Borgia. When Borgia lost in the power struggle for the Papacy, Machiavelli wondered ruefully why it was that Borgia had believed "the promises of others more than his own." T. S. Eliot observed: "Machiavelli was no fanatic; he merely told the truth about humanity. . . . Lord Morley intimates that Machiavelli saw only half of the truth about human nature. What Machiavelli did not see about human nature is the myth of human goodness which for liberal thought replaced the belief in divine grace."

One of his friends, more successful in his time but less famous afterwards, the statesman-historian Guicciardini, saw Machiavelli's idealism overcome even that famous cynicism. Machiavelli wanted the Pope to form a militia. Guicciardini opposed giving arms to Romans, "knowing that in true Italian fashion they would use them to fight among themselves and not to drive foreigners from the land." So writes Prezzolini.

Machiavelli's thought certainly is influenced by his being of a people with many forms of genius—but not that for government. How would it have come out had he been born in England, a land with a genius for government, manifest in the century of his death?

The Florentine was a pessimist. His thought is hostile to Christianity. He saw the disaster of Church entangled with state and forced to the ruthless demands of statecraft. His surely is not a total view of political life, but he spelled out dilemmas that will haunt man, that political animal, as long as states exist—even the best.

—EDMUND FULLER

Machiavelli. By Giuseppe Prezzolini. Farrar, Straus & Giroux. 372 pages. $8.50.

Labor - Politics

Divided They Vote

The whistle has blown, and each man takes his place
To toil for the world at a death-dealing pace,

Each movement is skillful, each brain is alert
While they patiently work in the factory dirt.

Just look at that picture, and then make a note,
That united they sweat, and divided they vote!

The machines and the belts and the shafting are still,
And not a wheel turns—there's a strike at the mill.

A strike! Every woekman has solemnly vowed
To stand by his mates till their claims are allowed.

'Tis a brave thing to do, but don't fail to note
That united they strike, but divided they vote!

The sun brightly shines as there passes along,
In holiday raiment, the Labour Day throng.

Each man is decked out in his Labour Day best—
LABOUR OMNIA VINCIT the banners attest.

Yes, Labour may conquer, but never, please note,
While united they march, but divided they vote.

. . . Ellis O. Jones, From the New Zealand
Federation of Labour Bulletin.

Labor - Politics

6-21-69

Labor Asks Extension Of Voting Rights Law

The 1965 Voting Rights Act, which bans literacy tests in states that had sought to keep Negroes from voting, should be extended an additional five years, the AFL-CIO told Congress.

Thomas E. Harris, the federation's associate general counsel, urged the House Judiciary Committee to extend the present law first and then consider various proposals for more extensive voting rights legislation.

Otherwise, he warned, there is a real danger that some states and counties will reinstitute discriminatory practices and extensive court battles will be necessary to undo the damage.

The day before Harris testified, Attorney Gen. John N. Mitchell for the fifth time cancelled a scheduled appearance before the committee to testify on the issue.

There were some reports that the Administration plans to propose a major revision of the law, extending the literacy test ban nationwide but dropping the provision for federal registrars to be used where local officials put obstacles in the way of Negroes seeking to register or vote.

Harris said the AFL-CIO "ultimately would like to see all literacy tests abolished everywhere."

But it is particularly important to keep the existing restrictions in effect, he said, because some areas of the South continue to show "ingenuity" in seeking means of keeping Negroes from voting and in trying to nullify the effect of their votes.

If southern states reinstituted literacy tests, Harris noted, the actions could be challenged under a Supreme Court ruling that such tests cannot be reinstituted in an area where inferior education available to Negroes resulted in their having a higher illiteracy rate than whites.

But "a simple five-year extension of the present ban on literacy tests, in the areas covered by the 1965 act, would be preferable to this sort of circuitous litigation," he suggested.

The once-huge gap between Negro and white registration in the six states fully covered by the law has been considerably reduced as the result of the 1965 legislation, Harris noted. But he said there is still a lag, ranging from 8.6 percent in Virginia to 33 percent in Mississippi, with even greater disparities in certain counties.

Air Line Pilots Win Northwest, Pan Am Pacts

The Air Line Pilots won substantial contract improvement for 2,800 pilots at Pan American World Airways and 1,600 at Northwest Airlines—the latter after a six-hour strike, the first in 43 years.

The Pan Am settlement was reached after eight months of negotiation. It provides wage increases totaling 17.5 percent over a two-year period. Other gains include a reduction in pilots' daily on-duty periods and monthly flight limitations; improved working conditions and rules, and gains in pensions, insurance and other benefits, the union said.

ALPA and Northwest representatives reached agreement in an all-night final session after pilots walked off the job. They returned when the settlement was announced by Chairman Leverett Edwards of the National Mediation Board and union negotiators.

Besides improvements in pay scales retroactive to May 1968 and hospitalization insurance, Northwest pilots will get a reduction in hours, one of their major goals. The new schedule of hours will be 82.5 a month until June 1970, dropping after that to 80.

Contract language still is being worked out by union and management representatives, ALPA said.

AFL-CIO News 6-21-69

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EMORY VIA
Politics - Labor

In union there may be weakness

LABOR IN AMERICAN POLITICS. By J. David Greenstone. Knopf. 408 pp. $8.50.

By James J. Graham

David Greenstone has written a scholarly, though sometimes pedantic, analysis of the emergence of organized labor as a major branch of the national Democratic party. The author, a political scientist at the University of Chicago, regards this as the most important change in the structure of the American political system in the past quarter century. He says this so-called lib-lab coalition is the result of a curious willingness among labor leaders to be absorbed into partisan electoral campaigns for the purpose of advancing trade union goals by strengthening the pro-capitalist Democrats.

Greenstone begins by tracing the development of our labor movement into a peculiarly American "economic" institution. Inevitable, perhaps, but C. Vann Woodward might quarrel with the author's failure to stress the role of the American Federation of Labor and the bosses in crushing the radical Populists and the Knights of Labor.

Except for a brief interval in the Thirties when "C.I.O.! C.I.O.!" became a rallying cry for a Better America, a working-class consciousness never developed among union leaders (even Lenin doubted the ideological potential of the masses). Greenstone makes the fascinating point that the political turmoil among workers that followed in the wake of organizing by the new, industrial unions can be attributed not to the economic alienation of workers as a class, but to effective exclusion as citizens with special needs from the political community.

The egalitarian frontier tradition, the emphasis on personalities over issues in American elections and increasing affluence among the hard core of labor's constituency, caused Samuel Gompers and his successors to focus on narrow, "pluralist," i.e., special interest, politics. In fact, ideology originally played no part in labor's partisan alliance, which began to solidify in the Twenties; according to Greenstone, the vicious anti-unionism of bourgeois employers, most of them Republicans, drove labor into the Democratic camp.

On the basis of his intensive field studies in 1965 in Detroit, Chicago and Los Angeles, Greenstone brilliantly demonstrates that in helping the Democrats, labor goes beyond working-class or even specialized trade union concerns to promote consumer class interests. But while Greenstone seeks to refute more cynical scholars, he concedes that the use of organizers and voluntary financial contributions from members to broaden the base of the party most sympathetic to trade union objectives is compatible with labor's traditional pluralist role. Public housing, aid to education, even fair (moderately enforced) employment statutes enhance labor's prestige with most workers without undermining a local union's collective bargaining position. Medicare, labor's cause célèbre of recent years, is, for semi-affluent retired members, largesse financed by a regressive payroll tax that hurts most marginal workers who will probably never receive the basic Social Security benefits.

In New York City, the Central Labor Council currently opposes John Lindsay, a liberal Republican who challenged the racial status quo as well as labor's vested interests. Labor's candidate, former Mayor Robert Wagner, symbolized the measured progress under Democratic auspices favored by the big city representatives of the working man. A powerful unionist told me in 1961 that he liked Senator Jack Javits but a Javits victory "would drag a lot of Republican bums in with him"; the same man in 1968, along with most of his brothers, backed Javits over the radical dove Paul O'Dwyer. Why? Because Lyndon Johnson told them to.

The merger of interests that controls New York City politics has tolerated a slew of racket unions and factory wage scales that provide 300,000 families with total incomes slightly above the poverty level. This spring the Albany Democrats, with no help from labor, failed to defeat drastic welfare cutbacks proposed by Republicans. In the name of job security, the unions forced their allies to compromise on school decentralization while the front pages of *The New York Times* announced that the A.F.L.-C.I.O. had agreed to pay the token fine imposed on the United Federation of Teachers for its unlawful strike against black and Spanish children.

What does the future hold? Greenstone declines to say. Perhaps the new organizing alliance between the U.A.W. and the Teamsters, the two largest labor organizations in the country, may inject into the movement independent political perspectives and a sense of noblesse oblige. In the meantime, even the decent unions have suffered the loss of two generations of idealists standing to the left of the late Robert F. Kennedy, who himself was no hero to most members of the labor establishment.

James J. Graham will join the faculty of the University of Arizona Law School in the fall.

BOOK WORLD, WASHINGTON POST, July 13, 1969

9-23-69

Labor Letter

A Special News Report on People And Their Jobs in Offices, Fields and Factories

Labor ~ Politics

LABOR'S SUPPORT and votes will be split in several key elections this fall.

In New York's mayoral race, the AFL-CIO Central Labor Council is backing Democratic challenger Mario Procaccino. But several unions with big black memberships—including a 115,000-strong unit of the State, County and Municipal Employees—are supporting Mayor Lindsay. As a result, says one labor man, "there really won't be any labor vote in New York." Cleveland's Negro mayor, Carl Stokes, gets AFL-CIO support. But Republican Ralph Perk is expected to get the votes of most white union members.

The Wayne County AFL-CIO will decide next month whom to back for mayor of Detroit: Richard Austin, the black auditor who won the recent non-partisan primary, or Sheriff Roman Gribbs. The United Auto Workers leans toward Austin. "We know where he stands," says a UAW politico. In the Pittsburgh mayoral race, the Allegheny County AFL-CIO backs Democrat Peter Flannery, who's likely to get a heavy labor vote.

Bickering among New Jersey labor officials threatens to minimize the effectiveness of union support for Democratic gubernatorial hopeful Robert Meyner.

9/23/69 Wall St Jnl.

Getting Out the Vote: Labor's Project Aims At GOP Voters, Too

* * *

Pilot Program, With the Aid Of Computer, Lets Leaders Visit All Members at Home

By DOUGLAS BEDELL
Staff Reporter of THE WALL STREET JOURNAL

YORK, Pa. — Labor leaders in Pennsylvania are working, as usual, to get out the vote this fall. But this year it isn't just the Democratic vote.

In the past, labor's political workers here and throughout the U.S. generally have taken county voting lists and gone on a Democratic-door-to-Democratic-door canvass to remind party members to vote. But this year the labor workers are armed instead with street lists with only the names of union members—Democrat and Republican alike—and are calling mainly on them.

"Before," says Ed Clinch, president of the York County AFL-CIO Council and business agent for 5,000 York-area members of the International Association of Machinists, "we functioned as (Democratic) committeemen. This time we have identified our own people."

The switch is part of an AFL-CIO pilot project to determine if there is a better way to make the labor vote felt. The project, run by the organization's Committee on Political Education (COPE), is being tested in Pennsylvania and in the San Francisco and Washington, D.C., areas. It was launched as a result of union leaders' chafing at being termed an auxiliary of the Democratic Party with what they considered a less-than-proportionate say in such party matters as selection of candidates.

The Balance of Power?

The aim is to weld the vote of union members into a stronger, more cohesive force in its own right.

Union leaders feel that if they could contact their members at home rather than through hit-or-miss tactics at the plant or union hall, they could strengthen labor's voice and the worker's interest in politics. They worry that some members, who don't attend union meetings or who live some distance from their jobs, have been "abandoned" to local politicians.

"We are absolutely convinced that if we assiduously worked with our own people we could be the balance of power in most places in the United States," says an official of COPE in Washington, perhaps a bit expansively.

Union leaders realize that many members are registered Republicans and that many others don't bother to vote at all. In suburban Montgomery County outside Philadelphia for instance, two-thirds of the union members who are registered to vote are registered as Republicans. More than half the members aren't registered to vote at all.

It is these Republicans and unregistered persons that COPE especially wants to get at—the Republicans so that they can be advised how to vote, and the unregistered so they can be urged to register and then advised how to vote. The registered Democrats, it is figured, can usually be counted on to vote pro-labor simply because most labor-backed candidates are Democrats. But when a Republican is endorsed—the Pennsylvania AFL-CIO is backing five Republican Congressmen for reelection this fall—the unions want to make sure that both their Democratic and Republican members know it.

The new pilot project, it is calculated, covers all these situations. Here's how the system works.

In Pennsylvania, 41 international unions sent the names of 750,000 of their members who live in the state to a Univac III computer at the Washington headquarters of the International Association of Machinists, where COPE's project is being handled.

At a cost of about five cents a name plus massive input assistance from workers in the field, the computer is printing out lists of AFL-CIO members with the names listed by precincts, streets, telephone numbers and party registration, if any.

Local labor political workers then are given the sheets and they theoretically call on each person listed, regardless of party. They urge the nonregistered to register, and they explain the issues and tell which candidates the unions are backing.

Significant Cooperation

The cooperation among the unions is significant in its own right. Before the AFL-CIO merger in 1955 and when interunion raiding was still common, a union wouldn't think of letting its membership list get out of its hands. Several unions still have policies against it, though COPE is seeking to break these down.

Since the computer sends the names of a locality's union members to the county AFL-CIO council without identifying the unions to which they belong, the councils, instead of the

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Getting Out the Vote: Labor's Project Aims At Its GOP Voters, Too

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local unions, tend to become the focus of labor's political activity. "This is the kind of unity, the kind of identity the labor movement needs," says Walter Davis, assistant national director of COPE.

An official of the Pennsylvania Democratic State Committee is also enthusiastic about the project. "Labor has been labeled a paper tiger and hasn't been able to fight back," he says. "If now it can show that 80% of its people are registered, and how they're registered, it will get broader respect from the men in the legislative halls."

The Republicans, too, may benefit. One state AFL-CIO official says the computer program "will force labor to undertake to follow a more independent line at the local level. The ones who will really benefit from this are independent Republican candidates" who back labor causes.

The Bookshelf EV-The Presidency

A Plodding Look at the Presidency

There must be something about the office of the Presidency that brings out the worst in political scientists.

With rare exceptions, the books they write on the President's powers and problems fall into two, equally dismal categories. In one type, the author embroiders the obvious at great and boring length. The thoughtful reader rereads passages a second and third time, convinced the author must be saying more than has met the eye—for why would such an eminent historian take up so much space to say something so widely known and accepted? But there really is no more to it.

In the other type, the author spins elaborate and all too often inscrutable theories, carefully selecting those facts that support his theories and ignoring those that don't.

"Presidential Government:" The latest book by James MacGregor Burns, combines the failings of both types. Wordy and loaded with academic jargon, it plods from the ordinary to the obscure. Perhaps Professor Burns has begun to write too quickly or too often; certainly something far better should have come from a man who produced penetrating biographies of Franklin Roosevelt and John Kennedy.

Mr. Burns' book separates into two main chunks. In the first, he divides U.S. Presidents into three groupings. The Madisonian executive (John Adams, Taft) believes in checks and balances and limited executive power, emphasizes the protection of minority rights against the Government, and cautiously confines policy departures to cases where broad public support already exists.

The Jeffersonian President (Jefferson, Wilson) leads a unified government — working with but clearly dominating the legislature, commanding a political party committed to majority rule and liberal policies.

Finally, the Hamiltonian President (Washington, Lincoln, both Roosevelts) is a heroic leader with a personal following, lacking in broad philosophic commitment and instead acting on a flexible, expedient basis. He concentrates on day-to-day problems, on means and techniques, rather than on setting new long-range goals and educating popular opinion to seek them. Recent Presidents have leaned to this model, Mr. Burns argues.

Obviously, this game of categories badly oversimplifies, ignoring the variations and exceptions and squeezing everyone into one of three molds. An even more important reservation, however, is: So what? Even assuming the categories are accurate, are they meaningful or important? That leads to Mr. Burns' second major analysis.

Since the start of the century, he declares, the Presidency has grown [illegible] stronger, for many different reasons. [illegible] Johnson has carried it to still [illegible] strength; with the Vice President, [illegible] and entire bureaucracy dominated by him.

With this increasing Presidential strength, however, has come increasing danger. Burns does not mean the danger of a tyrant or madman winning the office; he believes the system makes this possibility remote. Rather he worries that the Hamiltonian President, lacking deep philosophic commitment, will bog down in minor adjustments and the seeking of consensus, and will not exercise "creative leadership," reshaping old institutions and patterns of thinking.

Such creative leadership, he maintains, is particularly needed today, when we have gone so far toward achieving material security and other, older goals. People will have little left to fight for, he says, and the President must be the man to set them new challenges, new goals, new causes.

Now doesn't all this sound just a trifle absurd—being argued as Lyndon Johnson, an outstanding Hamiltonian (to use Mr. Burns' categories), piles one new Great Society program on top of another? And the Johnson programs are not merely to reduce unemployment or improve medical care or achieve other material goals, but also to raise educational levels, provide recreational facilities, encourage educational television and the performing arts, and otherwise improve the quality of American life.

Can anyone seriously worry that we are running out of problems and challenges at a time when political scientists, journalists and others are drawing horrible pictures of a polluted environment, car-choked cities, assembly-line education, rising crime rates, and other menaces? The average man would think we have ample problems to last a few decades more, at least. And if they should vanish, what's so bad about that? Mr. Burns seems to be maintaining that we must continually manufacture problems so people can have things to worry about and feel about and bleed over, but he never gets too specific about what those problems might be.

And then, after spinning this all out, he really throws in an anti-climactic conclusion. The more powerful and less creative the Presidency becomes, he says, the more there is a need for an effective, creative, challenging Presidential opposition. For this we need a book?

—ALAN L. OTTEN

Presidential Government. By James MacGregor Burns. Houghton Mifflin. 366 pages. $5.95.

Wall Street Journal
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June 29, 1964
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Apportionment

Equal Representation

* * * * * *

Has It Always Been Nation's Fundamental Principle?

By LINDLEY H. CLARK, JR.

It is "established that the fundamental principle of representative government in this country is one of equal representation for equal numbers of people."

So said the Supreme Court's majority in a recent decision. Since this decision, in effect, held that most of the states, when it came to apportioning their legislatures, long had been following quite different principles, some people have questioned whether the Court's principle really was so firmly established.

Among the questioners were Justices Stewart and Clark, who noted in a dissent that they could find no support for the majority's contention in the political history of the United States.

As a matter of fact, "equal representation" was far from the minds of many of the men who assembled in Philadephia in 1787 to frame a new national government. One of the delegates pleaded on the convention floor that "the people should have as little to do as may be about the government."

However strange such a sentiment may seem for an early leader of our Republic, the delegates at Philadelphia had reason to be concerned about the unrestrained exercise of what then passed for "the popular will."

A Change of Systems

The Revolution had destroyed the complex colonial system in which the royal governor, the king, the British Parliament and the judiciary, usually appointed by the sovereign, all served as checks on the will of the elected colonial assemblies.

Instead of this system the colonies established provisional governments, dominated by elected legislatures. Since the cities for the most part remained loyal to the crown, their residents were denied influence in these bodies; the legislatures were controlled largely by the landholding classes.

The legislatures consequently ran riot. When courts tried to intervene to aid oppressed minorities, the legislatures either suspended the courts or turned them out of office. Huge issues of paper money soon became nearly worthless, in effect robbing creditors. George Washington himself had nearly 10,000 pounds of bonds and mortgages paid off with paper money actually worth as little as one-eighth of its face value.

For the time, the agriculturalists reigned supreme, working their will on the commercial and manufacturing minorities. The situation had so far deteriorated in many places that even Thomas Jefferson was moved to remark that "173 despots would surely be as oppressive as one."

Such fears were reflected in the formation of the institutions of our national Government. The President was not to be popularly chosen; he was, instead, to be named by electors, and even they were not necessarily to be elected by the people.

Divisions of Power

Powers were to be divided between national and state governments and, on the national level, further dispersed among the executive, legislative and judicial branches. But even these checks and balances were not deemed sufficient; the Congress itself was divided into two bodies.

It is certainly true, as the Supreme Court noted earlier this month, that this division was a concession to the states in exchange for a part of their sovereignty. The House of Representatives was to be based largely on population, thus protecting the larger states. The Senate was to consist of two representatives of each state, thus protecting the smaller states. But, in the minds of the framers of the Constitution, the matter was more than a mere compromise between two groups of states.

For one thing, of course, one house acted as a check on the other. Jefferson, who wasn't enthusiastic about the two-house concept, is supposed to have asked, at a breakfast with Washington, why such a system was necessary. In reply, Washington asked Jefferson why he poured his coffee from cup to saucer. "To cool it," Jefferson replied.

"Even so," said Washington, "we pour legislation into the Senatorial saucer to cool it."

This "cooling," in the view of the new Constitution's supporters, stemmed from more than the mere existence of a second legislative body. The members of the Senate were expected to be a far different group from the members of the House.

This thesis was advanced vigorously by

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the authors of "The Federalist," a series of articles written late in 1787 and early in 1788 by Alexander Hamilton, James Madison and John Jay. The immediate purpose of the articles was to induce ratification of the Constitution by New York, whose support then was considered both doubtful and highly important.

The Senators, like the President, were not to be elected by the people at all but by the state legislatures. To remove them even further from popular control, they were to serve six-year terms, as compared with two years for the House members.

Moreover, the Senators were to be older (a minimum of 30, against 25 for the House) and, hopefully, wiser men. "The propriety of these distinctions," says "The Federalist," "is explained by the nature of the Senatorial trust, which, requiring greater extent of information and stability of character, requires at the same time that the Senator should have reached a period of life most likely to supply these advantages."

So the Senators were to be a group of wise men, a group considerably smaller than the popularly-chosen House (even there "equal representation for equal numbers of people" is to some extent denied by the requirement that every state, no matter how small, have at least one Representative. In fact, some of the framers of the Constitution felt that one function of the Senate should be to serve as high-level advisers to the President; President Washington, however, rejected this idea.

A "Select" Senate

Many times, the authors of "The Federalist" refer to the Senators as a "select" group, giving America a "sense of national character." This sense "can only be found in a number so small that a sensible degree of the praise and blame of public measures may be the portion of each individual; or in an assembly so durably invested with public trust that the pride and consequence of its members may be sensibly incorporated with the reputation and prosperity of the community." The Senators, in this view, were clearly not to represent equal groups of people or even their states alone, but rather the whole nation.

Yet, paradoxically, "The Federalist" argues that the Senators were in a sense more responsive to the popular will than the Representatives. Its reasoning is that the Senate was a smaller group, so that individual responsibility was easier to ascertain. Moreover, since the Senators were chosen for longer terms, the public could reasonably expect them to accomplish more within their time in office. Presumably, a public outcry was expected to force the state legislatures to replace Senators whose performance was poor.

As further support for their case, the authors of "The Federalist" noted that the government of Maryland, which included an indirectly-elected senate, was one of the few to abstain from the paper-money excesses of most states; the senate twice rejected such proposals by the state's lower house.

Senate's Tyrannical Aristocracy?

"The Federalist" also dealt with the argument that the Senate could become a tyrannical aristocracy, dominating the Government. To do this, it contended, the Senate "must in the first place corrupt itself; must next corrupt the state legislatures; must then corrupt the House of Representatives; and must finally corrupt the people at large," since otherwise the people, in two years or less, would elect a new House.

"The Federalist" pointed to Britain where the tendency had not been for the aristocratic upper house to gain ascendancy but quite the reverse. In the U.S., too, the authors were convinced, the popular will would prevail.

In the years since the Constitution went into effect, the popular will has indeed gained ground. States began popular election of Senators and, since the Constitution was amended in 1913, all the Senate's members have been so chosen. The Electoral College still exists but, for all practical purposes, Presidents are popularly elected. Legislatures were reshaped to more closely reflect population, though such changes often were made far too slowly.

So the nation has indeed been moving closer to the concept of equal representation for equal numbers of people. But regardless of this month's Supreme Court decision many people still have doubts that it had ever been established as a fundamental principle.

Themes and Variations

EV Reapportionment

Revolutions & the Supreme Court

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Reapportionment

The American and French Revolutions, close together in time and springing from the same philosophy of man's "inalienable rights," have long invited comparison. The reasons for the success of the first and the failure of the second lie probably as much in geography as anything else. After defeating the British armies, the Americans had a continent to themselves with little external political pressure. Given 13 states and a vast territory, they could shape a new nation of their own, and they did it well.

The French revolutionaries, however, were faced with a nation in being whose social and political order, ingrained over the centuries, they sought to change. They were hampered from within by economic decline and the habitual privilege of the aristocracy, with whom their reforming zeal could make no compromise. From without they faced the hostile monarchies with whom they shared the Continent. Their revolution quickly decayed into chaos followed by despotism.

There are more particular and more subtle differences in the two revolutions, however, which the recent Supreme Court decision on the apportionment of state legislatures brings to mind.

* * *

The French Revolution began when Louis XVI summoned the Estates-General—composed separately of clergy, nobility and bourgeois—to deal with the French financial crisis of 1789. The bourgeois Third Estate, source of most of the economic and philosophical force of the Revolution, wanted the Estates-General to convene as one body so it could partake of its deliberations rather than be simply an overruled minority. The nobility, however, prevailed in its insistence that the three estates convene separately. It can be argued that the Revolution was lost at this juncture, for the Third Estate demurred, declared itself the National Assembly, and proceeded to conduct the Revolution.

The nobility, representing less than 2% of the population, but a tremendous social and economic force, was left out. The pressures the nobility brought against it later were in large measure responsible for the Revolution's collapse and the installation of the despot Napoleon.

The noblemen, aligned with the bourgeois against Louis at the outset, though for different reasons, might have been persuaded to be represented in the new constitutional government which both Estates sought. To be sure, they would have accepted only a representation far greater than the 2% interest which a "one person-one vote" principle would have afforded them. It might have been based on their vast land-holdings which covered much of France.

In some ways comparable to the relationship between popular and landed interests in France is the representation by population in our House of Representatives and by states, or sectional interests, in the Senate. In the apportionment decision, the Supreme Court recognized the compromise between these two interests as a "unique historical circumstance" in the founding of our nation. The court would allow it to stand, sanctioned as a contract. What the court failed to see is that this sort of contract or compromise is not a "unique historical circumstance," but a continuing phenomenon of our form of government. Advancing the principle of "one person—one vote," the court declares, "Legislators represent people, not trees or acres. Legislators are elected by voters, not farms or cities or economic interests." The court sets up alternatives and chooses one, deciding that our nation is people, not a portion of a continent, not an economic system.

The truth probably is that legislators represent inclusively people, trees and acres. Had the court taken this view in deciding for reapportionment, it might have left the states with one legislative house based on population and another based on some other criterion of each state's own choosing.

But this view and the court's view are only two of an infinite variety of opinions. The fact is that specific interests—economic, social, rural, urban—do exist and their political force may not be commensurate with their popular support. When the franchise of such interests is denied or altered by the decree of a non-representative body—Parisian Commune or U.S. Supreme Court—representative government is weakened.

There is need to reform the apportionment of state legislatures, just as there was need for reform in France in 1789. But reform soured and went awry in France because every time the revolutionaries grew impatient or discouraged with the representative process, they acted by decree through bodies increasingly less representative. From the National Assembly they removed power to the Legislative Assembly, then the Paris Commune and the Committee of Public Safety, then to the Directory and ultimately to Napoleon.

* * *

To find a parallel with any such disastrous process in the Supreme Court's reapportionment decision may be to stretch a point—but it is worth considering. The court finds apportionment other than by population a denial by the states of equal protection of the law, guaranteed by the first paragraph of the Fourteenth Amendment.

But as Justice John Marshall Harlan points out in his dissent, the court has ignored the second paragraph which describes how states may deny some citizens the right to vote—though not on account of race, color or previous condition of servitude, as later prohibited in the Fifteenth Amendment.

The Fourteenth Amendment, including its second paragraph, as Justice Harlan reminds us, was adopted by a representative Congress, then ratified by two-thirds of the states. The nine-man court has chosen to ignore that paragraph to expedite "reform."

The court has done two wrongs. First, its majority has worked up a definition of the nature of representative government and imposed it, to the exclusion of other philosophies, upon the states. Second, the court simply has ignored the voice of the people in the second paragraph of the Fourteenth Amendment.

Impelled by the boiling forces of revolt and constrained to a narrow course by their enemies, the French revolutionaries could not reverse their departure from representative government. The U.S. Supreme Court, however, has in the past and always in the future can reverse itself. There is, at least, that comforting difference.

—NEIL ULMAN

Johnson Accepts GOP Plan to Delay Reapportionments of Legislatures

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Judges Would Have to Keep Status Quo Through 1965 Except in Unusual Cases

By a WALL STREET JOURNAL *Staff Reporter*

WASHINGTON — Johnson Administration lieutenants in effect capitulated to Senate Republican Leader Dirksen by accepting a formula designed to delay court orders requiring swift reapportionment of state legislature seats.

After a round of negotiations with Justice Department aides, Democratic Leader Mansfield reluctantly accepted and agreed to cosponsor a revised Dirksen plan that would seek to postpone the necessity for reapportionment at least through the end of next year by requiring Federal judges handling reapportionment cases to maintain the status quo in the absence of "highly unusual circumstances."

In essence, the agreed approach would seek to lift from a half-dozen states the need to comply in time for the November election with a Supreme Court ruling that both chambers in a state legislature must be elected from districts equal in population.

Beyhond the almost mandatory extension until 1966, Federal judges would again unless highly unusual circumstances dictate otherwise, have to grant "reasonable opportunity" for legislatures to act either by law or by an amendment to the state constitution. This procedure normally takes several years.

Mr. Dirksen regards his plan to curb court-imposed reapportionment as a delaying tactic that will permit Congress to consider next year a Constitutional amendment intended to overturn the "one man, one vote" Supreme Court decision that opens the way to strengthening the voting power of cities and suburbs in the state legislatures.

The Administration's acceptance of what Mr. Dirksen has been demanding all along seemingly removed one roadblock to Congressional adjournment on Saturday, Aug. 22, the last weekend before the Democrats' national convention in Atlantic City.

The Dirksen-Mansfield reapportionment bill may be brought to a Senate showdown today; sufficient votes to add it to the foreign aid authorization bill are at hand, though liberals who regard it as an unconstitutional invasion of court prerogatives may mount a talkathon against it.

Same Tactics to Be Employed

To push through other unfinished business on the Administration's legislative slate, Democratic captains plan to rely on the same combination of tactics that already has produced a substantial string of Congressional victories: Judicious compromise, deft lobbying (including pressure from defense contractors in key Congressional districts) and occasional touches of plain bluff.

Bluff was employed to an extent in the delicate negotiations with Mr. Dirksen over the reapportionment rider. Even as the Republican leader met with Justice Department negotiators, Rep. Celler (D., N.Y.) and like-minded House liberals were threatening to try to defeat any aid bill that carried a reapportionment rider. Senate Democrats were privately confident, however, that Mr. Celler's men would fall in line if a compromise acceptable to the White House could be negotiated, as it subsequently was. The same Senate leaders who pooh-poohed Mr. Celler's threats suggested, nevertheless, that Mr. Johnson would veto the aid bill if Mr. Dirksen refused to strike an agreeable bargain.

This summer is no exception to the tradition that the final weeks of any Congressional session are the most productive.

Appalachia Aid Pending

Of the 30 bills Mr. Johnson labeled "must" in June, 16 have become law and a half dozen others are on the way to enactment. The two biggest remaining parcels in the bulky Johnson program are the $1 billion aid to Appalachia and that hardy perennial, "medicare."

Appalachia aid, hung up for two weeks in the House Rules Committee, is set for a floor test early next week, and success for the White House seems probable; perhaps 30 Republicans, 8 more than voted for the poverty package last week, are prepared to vote for it.

Senate approval is all but assured.

To obtain medicare—hospital and certain other benefits for the elderly financed by higher Social Security taxes—Mr. Johnson is relying on his ability to steer through a Senate-House conference committee and then through the House whatever medicare measure the Senate attaches to the House-passed increase in regular Social Security benefits.

"You worry about the Senate, and I'll worry about the conference," the confident Chief Executive tells ranking Senators.

ers contemplate tying another dose of depressed-areas aid, which the Administration says it wants, to another helping of Federal funds for accelerated public works, which the Administration says it doesn't want. In brief, the tentative plan is to reduce by perhaps $100 million the Senate-passed $456 million depressed-areas bill and substitute for the reduction a roughly similar amount for job-creating public works; the deed would be done in a single bill, in which the Senate would then be expected to concur. House Democratic Leader Albert of Oklahoma is among those who prefer public works to depressed-areas aid; in an election year, public works projects generally can be processed and announced more quickly.

Other Johnson Victories Forecast

Mr. Johnson's men expect further victories to gild his Congressional record on yet other fronts.

They expect House Rules Committee approval, probably today, of a Senate-passed expansion of the National Defense Education Act.

In the Senate votes are readily available for a House-approved $283 million plan to build nursing schools and train nurses.

A housing bill that continues a number of existing programs but ignores several new ones requested by the Administration will be shoved through the House today.

Senate leaders expect to bring up the foreign aid money bill late in the week, perhaps Saturday; they will probably accept cuts in the range of $100 million to $200 million to speed the unpopular measure along.

Foreign Aid Bill Change Sought

Senate supporters of foreign aid hope that, in conference with the House, they can eliminate or soften a change in the Senate authorization bill that would raise the interest rates on foreign aid loans. Sponsored by Sens. Morse (D., Ore.), Lausche (D., Ohio) and Mundt (R., S. D.), this would require the State Department's Agency for International Development to charge foreign borrowers at least 2.5% a year on loans for noncommercial development. For loans to finance projects of a commercial or industrial nature the annual rate would be even higher—the equivalent of what the Treasury pays for long-term borrowing plus one fourth of one per cent.

Chairman Fulbright (D., Ark.) of the Senate Foreign Relations Committee calls this an "administrative monstrosity, completely defeating the purpose for which these loans were established." He terms the interest rate amendment "a far greater problem for the aid people" than the ceiling of $3,250,000,000 the Senate voted on the aid authorization. "That cut really didn't change much," Sen. Fulbright asserts. "By the time the figure is compromised with that of the House, it will still probably be higher than the House appropriation." That sum was $3,316,572,400. The authorization bill, on which final action is expected shortly, establishes a limit on an appropriation.

If they can't scrap the interest-rate amendmend in conference with the House, whose authorization bill contains no such restriction, Senate backers may try to eliminate the distinction between commercial and non-commercial loans, or to reduce the rate somewhat and add a grace period during which borrowers wouldn't have to pay the higher rates. Present long-term foreign borrowers generally pay only three-fourths of 1% for the first 10 years, then 2% for the balance of the loan, which can extend as long as 40 years.

Anguish in Arizona

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Supreme Court's Districting Edict Has State in Uproar

BY JOSEPH W. SULLIVAN

PHOENIX—Question: Why is the legislature so stingy with a dollar?

Answer: Because it wears the copper collar.

This little jingle, a recurring refrain since Arizona's early days of statehood, has parodied the vexation of many city dwellers here with the shortcomings of a state government long responsive to outstate land and mineral interests symbolized by an upper crust of powerful copper mining companies.

Since June 15, however, the jingle-singing has been drowned out by a shrill chorus of protesting voices from throughout this big and variegated state. Occasion for the outcry: A ruling by the Supreme Court in far-off Washington that representatives to both houses of a state legislature must speak for equally populated districts. For any Arizonan with basic arithmetic skills this meant one thing—a hand-over, on paper at least, of political dominion in the state to a single city, Phoenix, and its suburbs.

And though the voices come from diverse sources, they display remarkably little discord. Listen to some.

"If we went strictly according to population, areas larger than many states would be left without a legislative voice. The diversity of our economy, if nothing else, dictates giving them a forum." That's a liberal Democrat from Phoenix.

"I spend half my day cursing the Senate, but the rest of the time I recognize it's needed to maintain a balance of power in the state." That's a top aide to Gov. Paul Fannin, a conservative Republican whose base of support rests in Phoenix.

"Under the present setup we can usually get our point of view across and hit a compromise, but give (Phoenix) both the Senate and the House and the legislature wouldn't even stop to listen to us." That's a Democratic state Senator from an outlying northern Arizona county.

Agreement at the Top

This unusual harmony becomes even more extraordinary in the joint call by Gov. Fannin and the leading Democratic officeholder in the state, Secretary of State Wesley Bolin, for a constitutional amendment to annul the Supreme Court proclamation that legislators should represent people, not acres, trees or cows.

In Washington, this plea is carried forth by two of Arizona's three Congressmen, Phoenix Republican Rhodes and rural Democrat Senner. (The third Representative, Morris Udall of Tucson, has kept silent.) Arizona's most prominent citizen, Barry Goldwater, supports a constitutional amendment, while aides to the state's other Senator, Democrat Carl Hayden, says he's "sympathetic" to the smaller counties' view.

Under the Supreme Court dictum the Arizona Senate, in which each of the state's 14 counties is assigned two seats, must be reapportioned. And Phoenix is one of four U.S. cities (the others: Chicago, Honolulu and Wilmington, Del.) whose majority population, figured on the basis of the counties in which the cities are located, stands them to become outright overseers of their states.

The 811,000 residents of Maricopa County, made up largely of Phoenix and its suburbs, already comprise 53% of Arizona's population; and the city's rapid growth, nearly five-fold since 1950, promises to lift that percentage even higher. Even the 40 (out of 80) seats Maricopa holds in the population-based House of Representatives may not prove sufficient to satisfy a rigid application of the Supreme Court's "one-man, one-vote" doctrine.

Phoenix' ascendancy to political preeminence would put it in the position of a single city attempting to reflect the many moods of a state as large as all of New England and New York combined. Yet aside from commiserating with each other about the abundance of sun and the scarcity of water, Phoenix and outstate Arizona share few common interests.

While myriad electronic devices come off Phoenix assembly lines at an accelerating clip and the city's banks and distribution houses flourish, Arizonans elsewhere (excepting Tucson) have stuck largely to tending the "Three-C" economy of copper, cattle and cotton that got the state going in the first place. "The only place most of the Phoenix people in the legislature have ever seen a bull is in a rodeo," grumbles a lawmaker from north-lying Coconino County, itself more than twice the size of New Jersey.

Cotton and Copper

Southern Arizona grows as much cotton as the two old plantation states of Georgia and South Carolina together. Five eastern Arizona counties depend heavily for their livelihood on the scoop of copper mining shovels, supplying more than half the U.S. output of the metal. And though the no-longer-infant electronics industry has pulled even with the copper mines as an Arizona employer, farm and mine products still bring more in the marketplace than all that Phoenix manufactures.

Sympathy here in Phoenix for the rural counties' sudden plight is, of course, diminished by the memory of long years of urban subservience. Ever since Arizona's first governor, George W. P. Hunt, set the standard in 1917 by herding about 1,000 striking copper miners into cattle cars and evicting them from the state, the land and mineral interests have been well served here. As recently as five years ago, by common acknowledgement, it was tax "advisers" for the copper companies, cattlemen and farm groups (with help from interested railroads and electric utilities) who charted a revision of the state's revenue laws.

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Over the past decade, however, city influence has been on the rise. Maricopa County flexes its numerical muscles mightily in all statewide elections—giving Republican Gov. Paul Fannin a 41,000-vote margin in 1962 to outweigh a 6,000-vote Democratic edge elsewhere in the state. Phoenix champions have also made extensive use of another electoral device, the "initiative" to put city projects on the ballot through petition when the legislature balks. In 1959, for instance, they won university status for Arizona State College in suburban Tempe; this fall they hope to put through an amendment to the state constitution permitting a reshuffling of school assistance dollars more favorable to the city. After a reapportioning in 1961, moreover, Phoenix and Tucson envoys gained a clear edge in the Arizona House to balance rural influence in the Senate.

It's against this backdrop that strong sentiment throughout the state has swelled up to let the countryside retain its Senate hold. Politicians from outlying areas kick up the biggest fuss, of course, with predictions of roughshod slighting of their interests should the legislature ever fall completely into Phoenix hands. "These Phoenix people, many of whom are newcomers to the state, come into the legislature hell-bent to correct all sorts of imagined inequities without any regard for how their remedies would affect the rest of us," shudders a veteran legislator from the north country.

More taxes and less water for rural areas, concentration of school and highway outlays in the cities, short shrift for outstate colleges such as Arizona State College at Flagstaff and Eastern Arizona College in Thatcher—all these figure in the reapportionment prognosis of downcast small county legislators.

Tax Change Worries

Ranchers and farm groups, for instance, are already perturbed about Gov. Fannin's plan for statewide equalization of property taxes, though they concede assessments on rural property are on the low side at present. The mere mention of a severance tax on mine products enrages copper men, but many urban groups and labor unions (the Mine, Mill and Smelter Workers notably excepted) have long been clamoring for such a levy and might well get their way in a city-run legislature.

Not even the vast billion-dollar central Arizona project now pending before Congress will satisfy the Phoenix area's demands for added water, let alone the thirst of smaller counties to its east and north. While Federal authorities and established water rights will largely govern distribution of the Colorado River inflow from this mammoth project, political pressures within the state will also come to bear. "You can be sure that if the state say-so is strictly Maricopa's, it will get all it can drink and leave us with the dregs," observes an eastern Arizona legislator.

Fear of the consequences of the Supreme Court edict runs so deep among small county political leaders that some hint darkly of drastic action. "I don't think Maricopa would want us to split off and form a separate state, and we certainly don't want to," declares the president of the Arizona Senate, Clarence Carpenter, on behalf of little Gila County to the east of Phoenix. "But if they get control and start shoving us around, there's quite a lot we could do, starting with refusal to pay state taxes and working on from there."

The prevailing disposition in Phoenix is to take such outstate alarms lightly. Rather than brutal oppression of rural interests, a greater concern here is that a Phoenix-dominated legislature would be incapable of major action. The Maricopa House delegation (consisting of 23 Republicans and 17 Democrats) is rated as a paper tiger wrent by partisan fratricide. "Give Maricopa the Senate, too," despairs one commentator, "and you'd have a completely schizoid legislature incapable of doing anything."

So, whether you listen to the voices of Phoenix or the far-out provinces, it's clear the wisdom of the U.S. Supreme Court has aroused much anguish in Arizona.

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Reapportionment Ruckus

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California Example Shows Issue Overwhelming Usual Politics

By Ed Cony

SACRAMENTO — One morning recently, Roger Williams sat at a piano which had been wheeled into the gaudy Senate chamber here (refurbished last year in a style best described as Miami Beach Bad) and played soothing music for California's State Senators.

The enthusiasm with which the Senators welcomed this interlude suggests their prevailing mood. They'll relish anything to take their minds off politics, for nearly any aspect of that normally favored subject now inevitably recalls one chilling fact: A Federal court has ordered the legislature to reapportion the State Senate by July 1, or have the Court do the job for it.

It's easy enough to see why the Senate shrinks from the task at hand. The Court is asking the Senators to perform an act of self-mutilation, and masochistic tendencies are seldom found in politicians. "We'll be asking our guys to vote on a bill which will eliminate 20 of them," says Senator Stephen Teale, who heads a special committee on reapportionment. That would be one of every two Senators.

"We're still in a state of shock," Mr. Teale laments. He might have added that the resulting waves reach far outside the Senate chamber. With a good chunk of the state's political power up for grabs, the Assembly and Governor are bound to be involved as well. Stable political alliances are endangered and old feuds easily rekindled. In an effort to salvage jobs, Senators fret over such schemes as carving California into two states, rather than over more prosaic items such as budgets. For the day-to-day legislative business affecting all of the state's citizens, this spells potential chaos.

California is far from the only state finding its normal political processes overwhelmed by the sticky question of reapportionment. In the wake of the Supreme Court's ruling that both houses of state legislatures must follow a "one man, one vote" principle, Federal courts have ordered reapportionment in at least 24 states by the next election. Similar action is likely in others to head off possible court jurisdiction. While the specifics differ from state to state, a close look at California's reapportionment ruckus may suggest what's in store elsewhere.

Mechanics Staggering

For one thing, the simple mechanics of redistricting are staggering, and so are the inevitable realignments in political power. Consider the present makeup of the California Senate:

Los Angeles County, with over six million people, is represented by a solitary Senator, Tom Rees. One of his colleagues, Bill Symons, Jr., has a constituency of only 15,000, spread over three sparsely populated counties along the Nevada border.

In general, there is tremendous underrepresentation in Southern California, the area "south of the Tehachapis," the mountain barrier which separates the northern two-thirds of the state from the southern third. According to the "one man, one vote" principle three Southern California counties—Los Angeles, Orange and San Diego—are entitled to 20 Senators. They now have three.

If Senate membership is held to 40, as seems likely, some monster-sized districts will result. "Why, one district would stretch 800 miles from the Oregon border to the San Bernardino County line," rasps Senate President Hugh Burns, a gregarious Irishman who has roamed the legislative halls in Sacramento for the past 29 years. "How many states would that stretch to on the Atlantic Coast?" he demands. (Senator, if you started in Kittery, Maine, it would take you through 10 other states and finally into South Carolina.)

To the outsider, a palatable political solution would seem to lie in increasing the size of the Senate. But that idea draws little support among the Senators. "We haven't been able to see any virtue in it," remarks Sen. Teale. "To save 80% of the Senators who now stand to go, we'd have to increase the Senate from 40 members to 200," he explains.

The problem may be knotty, but the endangered politicians are not lacking in ideas. While one Senator plugs the two-states idea, another wants to junk the two house system in favor of a unicameral legislature. The trouble is that no Senator can attract much support from his fellows. "Each of the 40 Senators is carrying around in his pocket his own version of a reapportionment solution," says one state official.

The only idea drawing any real enthusiasm appears to be self-deluding. It seeks to avoid reapportionment altogether by supporting an amendment to the U.S. Constitution which would allow states to apportion one house of their legislatures on a basis other than population. Sen. Dirksen and various Congressmen have, indeed, introduced such amendments in Congress. But the amendment process is a notoriously lengthy one, and California is up against a July 1 deadline. This doesn't prevent Senators in Sacramento from embracing the amendment "solution," however.

They are even going so far as to dispatch some of their number to distant parts of the country to drum up additional support for a U.S. amendment. The idea is to bombard Congress with resolutions urging an amendment. One two-man team of California Senators has been calling on legislative leaders in the Southeastern states, and late on a February afternoon they phoned Sen. Burns

from Atlanta to report their progress. Visitors in Mr. Burns' office had no trouble at all hearing Sen. John Begovich bellowing into the phone: "The Georgia Senate passed the resolution today—in our honor."

A number of other states have passed resolutions similar to California's, and at least 16 have taken the even more drastic step of petitioning Congress for a Constitutional Convention to overturn the Court's reapportionment ruling. The U.S. Constitution says Congress "shall" call an amending convention if such action is requested by two-thirds of the states. This method of amendment has never been used, but the threat of a mandatory convention could be a powerful prod for Congress itself to pass the amendment.

States urging an amendment, however, are concentrated in the South and Mountain area. Also, states which have already reapportioned—14 last year alone—are unlikely either to boost this number or contribute to the three-fourths majority necessary to ratify any amendment proposed by a convention or Congress. In those states, the current legislators' jobs will no longer need saving, and they won't want to go through the reapportionment wringer again. Sen. Burns, a practical politician, concedes, "This is a very valid point."

Delaying Action

Another straw some Senators would grab is essentially a delaying action. They contend any reapportionment scheme would have to set up districts which cut across county lines. The California constitution forbids this, so the legislature would pass a proposed state constitutional amendment in this session providing Senators be elected on a population basis and allowing districts to cut across county lines. The amendment would be submitted to the voters in 1966 for approval, thus staving off reapportionment at least a year. "If we pass this state amendment, I think we will have complied with the court order," ventures Sen. Burns hopefully.

Whatever the Senate does ultimately to try to escape the guillotine, it must still attend to other business this session. Governor Edmund G. ("Pat") Brown has placed before the legislature a $4 billion budget, highest ever for any state. To balance it, he's calling for a bundle of new taxes which would raise $320 million over the next two years. The state's disability insurance fund is running out of money so rapidly that benefits might have to be reduced by April 1, unless "urgency" legislation to reduce the fund gets through both houses by then. Meanwhile, organized labor presses the lawmakers to raise weekly unemployment benefits from the current $55 maximum to $80.

The fate of all this legislation will be inextricably intertwined with the reapportionment struggle. Even veteran lobbyists are nervous this year. They figure the reapportionment threat may make Senators act unpredictably on substantive bills. Some students of the legislature look for Gov. Brown to exert considerable leverage this session. "The Governor, after all, does have judgeships and other state jobs to offer Senators who may be out of a job soon," notes one state politician in Sacramento.

But will the patronage carrot be enough to enable the Governor to get his $4 billion budget through? It needs a two-thirds majority in each house. While Democrats heavily outnumber Republicans in the legislature (26 to 13 with one vacancy in the Senate; 49 to 31 in the Assembly), the Democrats have been feuding with each other even more than normally in recent months. The row over reapportionment seems certain to rub salt in raw wounds. Old friends face the prospect they'll have to run against each other after the Senate is reapportioned.

Study of Finkmanship

Gov. Brown discovered recently just how sensitive the reapportionment issue is when he was incautious enough to remark that he thought the Senate was a little slow in coming to grips with the issue.

Democratic Sen. Teale immediately fired back that the Governor was "a fink when it comes to reapportionment." Mr. Teale later backed off and said he'd apparently misinterpreted the Governor. But it was the kind of flareup that doesn't provoke the best sort of publicity. San Francisco Chronicle Columnist Art Hoppe was inspired to write a piece entitled, "A Study of Finkmanship." It began: "GOOD NEWS. Senator Teale has decided Governor Brown is not a fink after all."

Meanwhile, there's every indication that an old Brown foe—Assembly Speaker Jesse Unruh—is itching to get into the reapportionment act too. One top Democrat in California, who knows both Mr. Brown and Mr. Unruh rather well, predicts: "Before the session is over it's very likely that Pat and Jesse will get into a fight as each of them seeks to wield power."

Mr. Unruh looks with favor on reapportionment which would bring more political leverage to Southern California, his base of power. In a recent speech he deplored the present setup of the Senate: "A resident of one of the three mountain counties of Alpine, Mono and Inyo has almost five hundred times more power in the California Senate than does a resident of Los Angeles County. Senators representing 5% of the population can halt an appropriation bill desired by 95% of the people."

If the Senate can't agree on a reapportionment bill, Mr. Unruh stands ready to fill the breach. "The Assembly will offer its own bill," says an Unruh aide, "after the Senate fails to produce one."

No matter how the maneuvering goes in the next weeks in Sacramento, it is almost inevitable that the Senate will be reapportioned before too long. More political power will gravitate to Southern California and the big population centers will gain Senators at the expense of the rural areas.

The almost certain effect on the Senate's party and ideological balance is also illuminating. Reapportionment was once nationally equated with a liberal bonanza, but that view overlooked the fact that the biggest gainers will be not the largest, but the most rapidly growing areas. In most states, these are hotly contested suburbs rather than liberal cities.

It happens that booming Southern California is a Republican stronghold. One Democrat in Sacramento concedes the Republicans will pick up a minimum of four Senate seats. Says a second liberal Democrat, "With all of those new Senators in Los Angeles and Orange counties, we're going to end up with a more conservative legislature."

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May 14, 1965
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Problem in Paradise: Hawaii Redistricting Fight Brings Impasse

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Court Bans All Legislation Till 'Satisfactory' Plan Evolves; State Operations Threatened

By Ed Cony
Staff Reporter of The Wall Street Journal

HONOLULU — For nearly six years now this island paradise has been enjoying the blessings of the statehood it sought so ardently for decades. But in recent months the harsh realities of statehood have begun to hit home with such force that residents might be forgiven for sometimes wondering if the struggle was worth it all.

The second thoughts arise from a deadlocked dispute here between the Federal District Court and the Hawaiian legislature over the question of reapportionment. Among other things, the impasse has prevented the legislators from passing a budget needed if the state is to operate in the fiscal year beginning July 1. In fact, the three-man district court has enjoined the lawmakers from passing any laws at all until they come up with a reapportionment plan satisfactory to the judges.

But the prospect that the legislature will pass such a plan anytime soon seems slim at best. For one thing, the body has already approved one reapportionment measure—rejected quickly by the court—and most legislators seem determined to stick with that bill. The state needs a speedy decision because technically the current legislative session has already run its legal limit. The session can be extended 30 days but in any event the legislature can't meet after June 5.

The net result of all the turmoil is that the state government faces operating troubles after July 1. "State government operations would grind to a halt without a budget," warns Gov. John A. Burns. Though many here think this assessment is a bit overstated, almost all agree the state's financial affairs will fast become a mess if the dispute isn't settled in the next six weeks.

Problems in Other States

Hawaii is hardly alone in its reapportionment troubles. The snarl here is in most respects similar to the redistricting struggles going on in a host of other states such as New York, California and New Jersey. But Hawaii's woes seem more complex and more extreme, mostly because of the extra-strong stand taken by the Federal court.

Actually, no one questions the Hawaiian senate needs to be reapportioned if it is to conform with the Supreme Court decision that both houses of a state legislature must be apportioned by population. The island of Oahu, where Honolulu is located, has 80% of Hawaii's residents but the state's seven "neighbor islands" elect 15 of the 25 state senators. In contrast, the 51 members of the house are elected essentially on a population basis.

The big argument centers on how to go about redistricting. The legislature's plan—which got by the senate in a close 13-to-12 vote—calls for Oahu to be represented by 19 of the 25 senators, a distribution roughly comparable to the population spread. But the plan also provides for multi-member districts, where voters would be required to elect as many as five senators. The state currently practices that form of election in some of its districts.

The Reasons Why

The legislature chose that method of representation for a couple of reasons. One, lawmakers say, is that the practice has been followed for a long time and has become "traditional." But another reason, perhaps more important, is that the house also elects some of its members this way and there has been no move to eliminate the practice in that body. Some senators felt, then, that the house would become the more prestigious of the two bodies because some house members would have more sizable constituencies than the senators.

The Federal court, however, objected to the multi-member districts, expressing a strong preference for single-member representation. In rejecting the measure last month, the court not only restored the ban on new legislation—which it had temporarily lifted—but it added a new demand that reapportionment be carried out by constitutional convention.

The call for such a convention seems only to have strengthened the legislature's determination to have things its own way. The lawmakers generally condemned the court decision, labeling it among other things as "an unreasonable exercise of the power of the court to impose its will on the legislature."

Besides this, the legislators claim a constitutional convention would be expensive and impractical. It could mean no less than six general elections between now and November 1966, the deadline for the election of a reapportioned legislature.

First, the voters would have to decide whether to call a constitutional convention. Assuming approval, the electorate then would be faced with primary and general elections to select delegates. Later the voters would have to ratify any new reapportionment plan and then would have to follow up by going through primary and general elections again. "We estimate the election costs would run $2.5 million," says Elmber Cravalho, speaker of the house.

Gov. Burns, who also opposes the idea of a constitutional convention, figures Hawaii "could spend the money to better advantage."

To get out of the impasse both the Hawaiian legislature and the executive department are resorting to a variety of legal appeals. The latest came only yesterday when Supreme Court Justice William O. Douglas was asked by Gov. Burns to stay the lower court ban on passage of any measures by the state legislature. The governor asked that it be lifted until the full Supreme Court considers the whole question on the grounds that "the health and welfare of the people of Hawaii will suffer irreparable injury and the orderly functioning of the governmental machinery will be disrupted" unless the action is taken.

What the outcome of the reapportionment battle will be is still anyone's guess. Most Hawaiian politicians are confident that Justice Douglas will approve the state's request for a lifting of the legislative ban and they won't speculate on what might happen if he doesn't.

But the alternatives seem clear enough. If Justice Douglas does issue the stay then it seems likely the matter will be tied up in court for many months. If he refuses, then the legislature will probably have to give in to the district court's demands and call a constitutional convention. But the lawmakers may not capitulate easily if the sentiment of one legislator is widespread. "We might defy the courts and go ahead and pass the budget and other measures, anyway," he declares.

CQ

CONGRESSIONAL QUARTERLY

Weekly Report

No. 23 WEEK ENDING JUNE 7, 1963

VOL. XXI
PAGES 921-949
Part II

THE AUTHORITATIVE REFERENCE ON CONGRESS AND POLITICS

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1156 Nineteenth St., N. W.
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Conservative Coalition Report

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Congressional Boxscore

MAJOR LEGISLATION IN 88th CONGRESS

As of June 7, 1963

Party Line-up

	Dem.	GOP	Vacancies
House Line-up	256	177	2
Senate Line-up	67	33	0

BILL		HOUSE		SENATE		STATUS
Tax Cut and Reform		Hearings Completed				
Corporate, Excise Tax Extension	(HR 6755)	Ordered Reported	Debate Scheduled			
Debt Limit	(HR 6009)	Reported 5/6/63	Passed 5/15/63	Reported 5/23/63	Passed 5/28/63	PL 88-30 5/29/63
Foreign Aid Authorization	(HR 5490) (S 1276)	Hearings Underway				
Social Security Medical Care	(HR 3920) (S 880)					
Medical Schools	(HR 12)	Reported 3/19/63	Passed 4/24/63			
Mental Health	(HR 3688) (S 1576)	Hearings Completed		Reported 5/21/63	Passed 5/27/63	
College Aid	(HR 6143)	Reported 5/21/63		Hearings Underway		
Youth Employment	(HR 5131) (S 1)	Reported 4/8/63		Reported 4/5/63	Passed 4/10/63	
National Service Corps	(HR 5625) (S 1321)	Hearings Underway		Hearings Underway		
Minimum Wage						
Unemployment Compensation Reform	(HR 6339) (S 1542)					
Urban Affairs Department						
Mass Transportation	(HR 3881) (S 6)	Reported 4/9/63		Reported 3/28/63	Passed 4/4/63	
Transportation Rate Changes	(HR 4700) (S 1061)	Hearings Underway		Hearings Underway		
Airport Grants	(HR 4919) (S 1153)	Hearings Completed		Hearings Completed		
Voting Rights	(HR 5455)	Hearings Underway				
Civil Rights Commission	(HR 5456) (S 1219, S 1117)	Hearings Underway		Hearings Underway		
Conservation Fund	(HR 3846) (S 858)	Hearings Completed		Hearings Completed		
Wilderness System	(S 4)			Reported 4/3/63	Passed 4/9/63	
Cotton Controls	(HR 2495) (S 1458)	Reported 6/6/63		Hearings Completed		
Feed Grains	(HR 4997)	Reported 4/2/63	Passed 4/25/63	Reported 5/9/63	Passed 5/16/63	PL 88-26 5/20/63
Civil Defense Shelters	(HR 3516) (S 844)	Hearings Underway				
Draft Extension	(HR 2438) (S 846)	Reported 3/6/63	Passed 3/11/63	Reported 3/14/63	Passed 3/15/63	PL 88-2 3/28/63
Congressional, Executive Salaries						

CONGRESSIONAL QUARTERLY SERVICE

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CONSERVATIVE BLOC IN CONGRESS REMAINS POTENT

Just when some observers reported that it was dying, the conservative coalition rose up in the House on June 4 and passed a Reorganization Act amendment recording its opposition to Presidential use of the Act to create a Department of Urban Affairs. (See p. 924)

The infrequent appearance of the conservative coalition in the House and its infrequent success in the Senate, had led many to conclude that the old alliance between Republicans and Southern Democrats had lost its power. But the June 4 vote appears to give good reason to think the coalition remains a potent force despite a weakening of ranks, and only needs a good issue to wake it out of hibernation.

What It Is

Congressional Quarterly voting studies measure the strength of the coalition on those roll-call votes on which it dominates voting behavior, that is, when a majority of Republicans and a majority of Southern Democrats vote against a majority of Northern Democrats. At this point, the coalition assumes major importance, since the Southern Democrats and the Republicans between them have majorities in both chambers (56 in the Senate -- R 33, SD 23; and 282 in the House -- R 177; SD 105). Obviously, not all Southerners nor all Republicans take the coalition position on every issue on which it forms. Thus the ability of the coalition to win depends upon whether it can avert defections from its own ranks, or, in some cases, whether it can attract enough votes from Northern Democrats to offset the ones it loses.

In the past, the coalition has formed on issues such as federal spending (except for farm programs and defense), state vs. federal powers, labor and wage legislation, aid to education and other federal social benefits (such as medicare), on some civil rights issues (particularly Senate rules questions), and on foreign aid.

Early indications in 1963 persuaded many observers that the coalition was weakening. Although it appeared fairly frequently on Senate votes during the first five months of the year, it won on only a handful, none of them important.

But perhaps the most striking evidence of decline was in the House, where Northern Democrats are more heavily outnumbered than they are in the Senate. In what many observers consider the key vote of the year, the House Jan. 9 voted to keep the Rules Committee membership at 15, thus lessening conservative control of it. In 1961 the membership had been increased in a dramatic fight from 12 to 15 for two years, with the conservative coalition opposing the enlargement. But in 1963 a majority of Southern Democrats voted with Northern Democrats to make the enlargement permanent. (For background and comparison of the 1961 and 1963 votes, see Weekly Report p. 31) Through the end of May the coalition had appeared on only three House votes (two of which it won).

The following were among the reasons most frequently cited for an apparent weakening of the coalition:

- The results of the 1962 election, particularly in the Senate. (1962 Almanac p. 1038)
- Assiduous wooing of Southern moderates by President Kennedy.
- The lack of a strong Administration push for controversial legislation, including civil rights.

Potency Demonstrated

Despite these factors, the June 4 reorganization plan vote demonstrated the coalition's continuing ability to determine the outcome of House voting tests, even in the face of a number of Southern defections.

Moreover, two bills which the coalition unsuccessfully opposed in the Senate (accounting for the relatively high number of Senate coalition votes) have still to come before the House. The two are urban mass transit (which also contains a section seeking to guarantee collective bargaining rights to transit workers) and youth employment (including the Youth Conservation Corps). Both are Administration priority measures. If either reaches the House floor (the Rules Committee is still a potential roadblock), it faces a stiff fight.

The fact is that many Administration measures, raising issues on which the coalition has traditionally fed, have yet to reach the House floor. These include, besides mass transit and youth employment, the Administration's bills for education, unemployment compensation, possibly the National Service Corps, foreign aid and medicare. (See opposite page) Some of these apparently are being held back until the 1964 election year, or to avoid provoking the coalition while the tax bill is under consideration.

The lack of push behind the President's civil rights legislation has been another factor in his courtship of Southern Congressmen. But the recent inflammation of the racial question evidently is forcing him to seek a civil rights law in earnest. And a revolt of Southerners in the wake of a civil rights fight could endanger the President's whole domestic program, including the tax cut.

That the Administration has made gains in the House is shown by a comparison of the 1961 and 1963 votes on the Rules Committee and the 1962 and 1963 votes on reorganization, although in the latter case the issues were not precisely the same.

- In the 1963 Rules Committee enlargement battle the Administration picked up 12 more Southern Democratic votes than in 1961 reducing the hard core of Southern opposition from 63 to 45. (There was no net change in the Northern Democratic votes but a gain of six Republican ones, for an over-all net gain of 18 votes. See Weekly Report p. 32)
- On the 1963 Reorganization Act vote, the Administration picked up 20 Southern Democratic votes from Members who had opposed the Urban Affairs reorganization plan in 1962. (It picked up 15 more Northern Democratic votes, but lost 10 Republican votes; the net change in its favor was 25 votes. See p. 924)

(Continued on next page)

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Despite these changes, the coalition is likely to remain potent for some time. It derives its strength, not from some pact between Rep. Howard W. Smith (D Va.), Rules Committee chairman, and House Minority Leader Charles A. Halleck (R Ind.), but from the economic and political interests of members, and in part from the racial situation in the South. (Many Southern voters fear liberal candidates will encourage and cater to the Negro vote, hastening the social revolution.) These factors change slowly, under the pressure of forces such as those generated by Negro voting registration drives, the Supreme Court's decisions on legislative apportionment, the increased urbanization and industrialization of the South, and the rise of a Southern Republican party. While there are indications that these factors are bringing Southern and Northern Democrats closer together, it is too early to order last rites for the conservative coalition.

Coalition Wins, Losses

The "conservative coalition" appeared on 17 -- or 16 percent -- of the 106 Senate and House roll-call votes through June 4. This compared with a frequency of 14 percent for the entire 1962 session and 28 percent during the entire 1961 session.

In the Senate the coalition appeared on 13, or 18 percent, of the 78 record votes; it won 4 of these, or 31 percent of the coalition votes. In the House the coalition appeared on 4, or 12 percent, of the 33 House record votes; it won 3 of these, or 75 percent of the coalition votes. The record, compared with complete sessions in earlier years:

	Coalition votes	Percent of all votes	Victories	Percent of Coalition Votes
Senate				
1963*	13	18%	4	31%
1962	34	15	24	71
1961	65	32	31	48
1960	46	22	31	67
1959	40	19	26	65
House				
1963*	4	12%	3	75%
1962	13	13	7	44
1961	23	20	17	74
1960	19	20	7	35
1959	11	13	10	91

Through June 4

Coalition Votes -- What They Were

In the Senate, the coalition appeared on two votes concerning proposed changes in Rules 22 to make it easier to cut off a filibuster and won on both votes, on five votes on urban mass transit and lost, and on three votes on youth employment and lost. It won a vote against making payment of Philippine war damage claims to individuals instead of to the Philippine Government and a vote against providing additional Internal Revenue enforcement agents.

In the House, the coalition won a vote to authorize unbudgeted funds for the RS-70 experimental plane and successfully opposed authorizing Chairman Adam C. Powell (D N.Y.) and three members of the House Education and Labor Committee to use counterpart (foreign currency) funds for travel to an international conference.

Definitions

- CONSERVATIVE COALITION -- As used in this study, the term "conservative coalition" means a voting alliance of Republicans and Southern Democrats against the Northern Democrats in Congress. This meaning, rather than any philosophic definition of the "conservative" position, provides the basis for CQ's selection of coalition roll calls.
- CONSERVATIVE COALITION ROLL CALL -- Any roll call on which the majority of voting Southern Democrats and the majority of voting Republicans oppose the stand taken by the majority of voting Northern Democrats. Roll calls on which there is an even division within the ranks of voting Northern Democrats, Southern Democrats or Republicans are not included.
- The Southern states are Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas and Virginia. The other 37 states are grouped as the North in the study.

(Realizing that the funds would be available from the State Department, which, unlike the House, would not require an accounting for expenditures, the House later reversed this vote on a bipartisan roll call.) It supported an extension of the Mexican farm labor law authorizing recruitment of "braceros" for U.S. farm work, and lost. It successfully supported an amendment to the Reorganization Act barring the President from using the Act to create any new department or agency.

In both chambers the coalition opposed the President on 8 of the 17 coalition votes, and supported him on none. In the Senate the President's position won out five times; the coalition won once (Internal Revenue agents). In the House the coalition won both votes (RS-70 funds reorganization) on which it opposed the President.

ISSUES LISTED

Listed below are the conservative coalition issues in the first five months of 1963. The roll call (RC) numbers refer to Congressional Quarterly vote charts, for which page references are also given.

Senate

In the Senate the conservative coalition took these positions:

Senate Rule 22: Voted Jan. 31 to table (lay aside) a constitutional question whether the Senate could end debate by majority vote when considering a change in Senate rule at the beginning of a session, notwithstanding the existing Senate rules, and won (53-42: R 21-11; D 32-31 (ND 12-31; SD 20-0); voted Feb. 7 to adjourn, in effect laying aside a pending motion to permit three-fifths of the Senators to end debate, in place of the current requirement of Rule 22 for a two-thirds majority, and won (64-33; R 23-10; D 41-23 (ND 19-23; SD 22-0). (RC 1, p. 137; RC 4, p. 175; see story p. 139)

Mass Transportation Labor: Voted April 2 to add language to the urban mass transportation bill (S 6) requiring that protective arrangements under which workers on transit systems receiving federal aid would be guaranteed existing collective bargaining rights, must be

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consistent with state law, and lost (36-52: R 21-11; D 15-41 (ND 3-35; SD 12-6)); voted April 3 to prohibit the Government from encouraging "the continuation of collective bargaining rights" for transit workers if collective bargaining would be inconsistent with state or local law, and lost (41-56: R 21-11; D 20-45 (ND 3-40; SD 17-5)); voted April 3 to reduce federal participation in the mass transit system grant program to one-half instead of two-thirds of the net project cost and in the emergency grant program to one-third instead of one-half of the net project cost, and lost (44-47: R 25-5; D 19-42 (ND 4-37; SD 15-5)); voted April 4 against an amendment setting limiting conditions under which a public body could purchase private transit systems and protecting workers affected by federal assistance, and lost (amendment accepted 52-41: R 9-21; D 43-20 (ND 40-3; SD 3-17)); and voted April 14 against passage of the bill, and lost, (passed 52-41: R 6-24; D 46-17 (ND 37-6; SD 9-11)). (RCs 10, 11, 18, 20 and 21, pp. 549-51; see story p. 558)

Youth Employment: Voted April 10 against including a Youth Conservation Corps in the youth employment bill (S 1) and lost (41-47: R 25-3; D 16-44 (ND 1-40; SD 15-4)); voted April 10 to replace the Youth Conservation Corps with an expanded version of the 1962 manpower retraining bill and to reduce the enrollment of the other youth employment programs in the bill, and lost (37-50: R 20-7; D 17-43 (ND 2-39; SD 15-4)); and voted April 10 against passage of the bill, and lost (passed 50-34: R 7-20; D 43-14 (ND 38-1; SD 5-13)). (RCs 31, 32 and 33, p. 595; see story p. 553)

Philippines War Claims: Voted May 1 against paying Philippines war damage claims to individuals instead of to the Philippine Government and won (amendment rejected 26-58: R 1-26; D 25-32 (ND 20-18; SD 5-14)). (RC 42, p. 701; see story p. 681)

Revenue Agents: Voted May 8 against an amendment to increase funds to hire additional Internal Revenue Service enforcement agents, and won (rejected 29-57: R 0-31; D 29-26 (ND 26-12; SD 3-14)). (RC 43, p. 746; see story p. 705)

Cotton Subsidies: Voted May 15 against tabling an amendment to the feed grains bill (HR 4997) which would provide subsidy program for domestic cotton mills, and lost (amendment tabled 44-36: R 3-22; D 41-14; (ND 33-4; SD 8-10)). (RC 52, p. 791: see story p. 750)

Of the issues before the Senate, the coalition formed in earlier years on changes in Rule 22 (1961 Almanac p. 642), on labor issues (1961 Almanac p. 642; 1960 Almanac p. 119; 1959 Almanac p. 142), on mass transit (1961 Almanac p. 642), on the Youth Conservation Corps (1959 Almanac p. 142) and on increasing the number of revenue agents (1959 Almanac p. 142). Because of political maneuvering over the passage of the feed grains bill, the 1963 vote on cotton subsidies was not necessarily representative of support for and opposition to this issue.

House

In the House the coalition took these positions:

RS-70: Voted March 13 to add $363.7 million to the military procurement authorization bill (HR 2440) for additional RS 70 experimental planes, against the recommendation of the President, and won (226-179: R 93-77; D 133-102 (ND 53-84; SD 80-18)). (RC 8, p. 340; see story p. 313)

Powell Junket: Voted May 14 against a resolution authorizing Rep. Adam C. Powell (D N.Y.), Rep. James Roosevelt (D Calif.) and two minority members of the House Education and Labor Committee to travel to the International Labor Organization conference in Geneva at House expense, using counterpart (foreign currency) funds (H Res 340), and won (resolution rejected 153-217: R 23-136; D 130-81 (ND 100-18; SD 30-63)). (RC 26, p. 786; see story p. 754.) The House subsequently reversed itself May 29, when a majority of Republicans, Southern Democrats and Northern Democrats all voted to permit the trip. RC 30, p. 856; see story p. 833)

Braceros: Voted May 29 to extend the law allowing importation of Mexican farm labor (PL 78) for two years, through December 1965 (HR 5497), and lost (158-174: R 78-53; D 80-121 (ND 17-101; SD 63-20)). (RC 31, p. 856; see story p. 832)

Reorganization -- Urban Affairs: Voted June 4 to bar the President from making use of the 1949 Reorganization Act to create any new executive department or agency, and won (226-175: R 158-3; D 68-172 (ND 3-139; SD 65-33)). (RC 32, p. 924; see story p. 948)

Of the issues before the House, the coalition formed in earlier years on the Mexican farm labor law and establishing an Urban Affairs Department under the Reorganization Act procedures. (1961 Almanac p. 642; 1962 Almanac p. 723)

Non-Coalition Issues

The coalition did not form in 1963 on four votes -- two in the Senate and two in the House -- on measures which formerly were coalition issues.

Senate

Cloture: A majority of Republicans and Northern Democrats Feb. 7 voted to close debate on a proposed change in Senate rule 22 to permit a minimum of 60 Senators to end debate on a pending matter (RC 3). Although the vote fell short of the necessary margin of two-thirds, it was the first time in recent years that a majority of the Senate had voted for cloture on a civil rights issue. However, Republicans, rather than Southerners, broke ranks on the vote. Invoke cloture: 54-42: R 18-15; D 36-27 (ND 34-7; SD 2-20). (See story and vote analysis, Weekly Report p. 139)

Debt Limit: A majority of Southern Democrats, Northern Democrats and Republicans voted May 28 for passage of a bill (HR 6009) raising the temporary national debt limit. (RC 70) A majority of Southern and Northern Democrats voted against a majority of Republicans on a delaying amendment which could have sidetracked the bill. (RC 69) In 1962, a majority of Southern Democrats joined Republicans in opposing a similar bill. Passage of HR 6009: 60-24: R 15-13; D 45-11 (ND 35-2; SD 10-9). (Weekly Report p. 834; see also 1962 Almanac p. 545)

House

Rules Committee: A majority of Southern and Northern Democrats voted Jan. 9 to permanently increase the membership of the House Rules Committee from 12 to 15 (RC 3). In 1961, a majority of Southern Democrats voted with a majority of Republicans against enlarging the Rules Committee for two years. (The vote for enlargment prevailed in both years). Agreed to 235-196: R 28-148; D 207-48 (ND 148-3; SD 59-45). (Weekly Report p. 31)

Student Loans: A majority of Southern and Northern Democrats voted April 24 against killing loans for

(Continued on page 946)

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HOUSE LIMITS PRESIDENT'S POWER UNDER REORGANIZATION ACT

The House June 4 passed by voice vote and sent to the Senate, with an amendment, an Administration bill (HR 3496) extending for two years, through June 1, 1965, the recently expired Reorganization Act of 1949. A motion to recommit the bill, offered by George Meader (R Mich.), was rejected by voice vote.

Prior to passing HR 3496, the House by a 226-175 roll-call vote adopted an amendment by Clarence J. Brown (R Ohio) prohibiting the President from creating a new executive department by reorganization plan. A majority of Republicans and Southern Democrats voted for the amendment, which had been endorsed by the House GOP Policy Committee May 28. (For voting, see chart p. 948)

Most of the supporters of the amendment had voted in 1962 to reject President Kennedy's reorganization plan to elevate the Housing and Home Finance Agency to a Cabinet-level Department of Urban Affairs. At that time, Republicans opposed the plan on grounds it was unnecessary and would enlarge the federal bureaucracy. Southern Democrats were against it largely because Mr. Kennedy had announced he would name HHFA Administrator Robert C. Weaver, a Negro, as Secretary of the department. The vote to reject the 1962 plan was 264-150: R 153-13; D 111-137 (ND 18-124; SD 93-13). (1962 Almanac p. 380, 596) For names of Congressmen who, on the June 4 Brown amendment differed from their stands on the Urban Affairs plan, see box.

BACKGROUND -- The 1949 Reorganization Act authorized the President to submit to Congress plans to reorganize Government agencies through transfer, abolition or consolidation of agency functions. Each plan would take effect automatically within 60 days unless disapproved by simple majority vote of either chamber. The Act was last renewed in 1961. (1961 Almanac p. 356)

In passing the 1949 Act Congress rejected a proposal to deny the President authority to use the Act to create a department. President Eisenhower in 1953 created the Department of Health, Education and Welfare through a reorganization plan which Congress endorsed by legislation. (1953 Almanac p. 288)

The 87th Congress disapproved four of the nine reorganization plans submitted by President Kennedy. Of the two he submitted in 1962, the Urban Affairs plan was rejected and establishment of an Office of Science and Technology took effect. (1962 Almanac p. 408)

The President's budget for fiscal 1964 called for extension of the Reorganization Act. The House Government Operations Committee May 21 reported HR 3496 (H Rept 311). (Weekly Report p. 841)

DEBATE -- June 4 -- Opponents of the bill said that the Administration had abused the reorganization power in the 87th Congress, that the Act reduced the role of Congress to the power of a veto, and that the Administration had not demonstrated need for extension of the Act.

Supporters said that reorganization plans were a useful tool to increase efficiency and economy in the operations of the Federal Government without infringing on the prerogatives of Congress.

In debate on the Brown amendment, opponents said it was unnecessary because Congress always could veto a reorganization plan which it opposed. Rep. Henry S. Reuss (D Wis.) called the amendment "an unwarranted slap at a great President."

Brown said that Congress must settle "this question as to whether or not a President by a reorganization plan can create a new department and thereby change the whole basic structure of the Federal Government, without the Congress passing on the subject in the usual legislative way...."

RELATED DEVELOPMENT -- President Kennedy May 27 transmitted to Congress Reorganization Plan No. 1 of 1963, to place the Franklin D. Roosevelt Library entirely under the jurisdiction of the Administrator of General Services. Responsibility for the library is currently divided between the GSA Administrator and the Secretary of the Interior, who has jurisdiction over the building and grounds.

Comparison of 1962 and 1963 Votes

The list below shows Congressmen who appeared to have changed their positions between 1962 and 1963 on the President's authority to use the Reorganization Act to create a Department of Urban Affairs.

The issues voted on were not entirely the same: the 1962 vote was on the issue of the specific department and its proposed Secretary, a Negro; the 1963 vote was on whether the President should have authority -- subject to veto by Congress -- to use the Act to set up any Cabinet-level department.

- The following Congressmen voted against the 1962 Urban Affairs Department plan but switched to support the President's reorganization authority on the 1963 vote:

NORTHERN DEMOCRATS (6) -- Udall (Ariz.), Aspinall (Colo.)#, Cannon (Mo.), Ichord (Mo.), Morris (N.M.), Kastenmeier (Wis.).

SOUTHERN DEMOCRATS (20) -- Elliott (Ala.), Trimble (Ark.)*, Bennett (Fla.), Vinson (Ga.), Boggs (La.)#, Morrison (La.), Bonner (N.C.), Steed (Okla.), Wickersham (Okla.), Hemphill (S.C.), Davis (Tenn.), Evins (Tenn.), Brooks (Texas), Patman (Texas), Thompson (Texas), Thornberry (Texas), Young (Texas), Gary (Va.), Hardy (Va.), Jennings (Va.).

REPUBLICANS (1) -- Conte (Mass.).

*# -- paired or announced in 1962. * -- paired or announced in 1963.*

- These Congressmen supported the President's 1962 plan but in 1963 voted to deny him authority to set up such a department:

SOUTHERN DEMOCRATS (1) -- Natcher (Ky.).

REPUBLICANS (8) -- Baldwin (Calif.), Mailliard (Calif.), Tupper (Maine), Mathias (Md.), Cahill (N.J.), Dwyer (N.J.), Wallhauser (N.J.), Fino (N.Y.).

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MILITARY CONSTRUCTION

The House June 5 passed by voice vote and sent to the Senate without amendment a bill (HR 6500) authorizing in fiscal 1964 $1,633,472,000 for construction at military installations in the United States and abroad and for construction and maintenance of military family housing. Of the total, $1,124,672,000 was provided for construction, including $184,062,000 for new military housing units and a "deficiency" authorization to increase by $3,356,000 spending ceilings on projects -- largely classified Army installations -- authorized in previous years and not yet completed. The bill, for the first time, authorized funds -- $508,800,000 -- for general support of family housing, which covers acquisition, leasing, improvements and maintenance of units. (For details of the bill see Committee section, below)

The Armed Services Committee added to the bill a requirement that all appropriations to the Defense Department for research, development, testing and evaluation (R & D) must first be authorized by Congress. A similar requirement currently existed for military construction funds (hence HR 6500), and for procurement and R & D on missiles, naval vessels and aircraft (HR 2440 -- PL 88-28; see Weekly Report p. 754).

Rep. Leslie C. Arends (R Ill.) said the requirement represented an effort by the Committee "to keep a strong hand on defense costs and not simply 'pass the buck'... to the Appropriations Committee."

Harley O. Staggers (D W.Va.) complained that the Committee had provided funds for "49 states of the Union, plus outlying territories, plus a number of foreign countries (54). But not West Virginia." Staggers said that West Virginia had not received a military construction project for three years despite its severe unemployment situation. He sought assurance from Chairman Carl Vinson (D Ga.) that West Virginia would be included in the next military construction bill, but Vinson said he would not authorize money for a state if there was "no military justification for it."

(The construction bill submitted by the Defense Department proposed a $3,480,000 item to transfer a Navy radio transmitter center from Sheltenham, Md., to Sugar Grove, W. Va. The Navy said the radio center could use some of the already completed facilities for a radio-telescope project at Sugar Grove that was abandoned in 1962. This request was deleted by the Committee.)

PROVISIONS -- As sent to the Senate, HR 6500 authorized:

Army	$ 200,672,000
Navy	205,277,000
Air Force	493,950,000
Defense Agencies	6,511,000
Reserve Forces	34,200,000
Military Family Housing	181,519,000
Family Housing Support	511,343,000
TOTAL	$1,633,472,000

BACKGROUND -- In 1962 Congress authorized a fiscal 1963 military construction program of $1,455,672,-500 (of which $6,030,000 was for deficiencies). The total included a family housing program of $219,543,000. In addition Congress required authorization for costs of maintaining and operating family housing, beginning with fiscal 1964. (1962 Almanac p. 427)

In submitting its fiscal 1964 construction requests, the Defense Department asked for $1,361,598,000 for construction, including $219,543,000 for the housing program, and asked for an additional $516,857,000 for housing operation and maintenance, making a total of $1,876,-455,000.

COMMITTEE ACTION

COMMITTEE -- House Armed Services.

ACTION -- May 27 unanimously reported HR 6500 (H Rept 345). The report said the Committee had made cuts totaling $243 million in the Defense Department's request, and that the line items in the bill were considered and reduced individually. The largest proportional cut was made in the Defense Agencies account, where over $20 million was cut from a requested authorization of $27,020,000. The largest actual cut was made in the Air Force account, where requests were reduced by $87,735,000. No cuts were made in requests for the Reserve forces. For land acquisition the Committee approved only 2,623 of the 14,498 acres requested.

The report said that requests by the Defense Department were based on a five-year plan, and identified by program as well as by service. Exclusive of the family housing provisions of HR 6500, the report said, $940.6 million was provided for active and Reserve forces for construction, as follows (in millions of dollars):

Programs	Total	Percent
Strategic retaliatory	$177.1	18.8%
Continental air and missile defense	107.2	11.4
General purpose	195.1	20.7
Airlift and sealift	13.3	1.5
Reserve and Guard	34.2	3.6
Research and development	82.9	8.8
General support	293.4	31.2
Emergency requirements	37.5	4.0
Total	$940.7	100.0

The report said the Committee included a section in HR 6500 to repeal all unfunded or unexecuted construction authorizations more than two years old, and to repeal all authorized housing projects not initiated by Sept. 30, 1964. Other Committee actions:

Hospitals. Provided authority of approximately $32 million for medical and dental facilities, including four new hospitals at Fort Rucker, Ala., Amarillo Air Force Base, Texas, Elgin AFB, Fla., and Vandenberg AFB, Calif.

Family Housing. Recommended that the Department stretch out to six years its program to build 62,000 units over five years and approved 10,000 units in place of the 12,100 requested for fiscal 1964. (Department representatives told the Committee that approximately 300,000 service families were not properly housed. They estimated that 80 percent of these could find adequate rental housing in nearby communities, but that military family housing should be built for the remaining 20 percent.)

Defense Agencies. The Committee deferred authorizing a $17 million administration building for the Defense Intelligence Agency pending "further study." It recommended making permanent the restriction, in the 1962 construction authorization law, lodging responsibility for construction and maintenance of real property used by the defense agencies with one of the military departments. (1962 Almanac p. 430)

Research and Development. The Committee, in requiring future authorization for all defense research and

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development funds, said "something on the order of $7 billion" was earmarked by the Department in each of fiscal 1963 and 1964 for these purposes. "It is obvious that here lay a large, important and extremely expensive area of activity which was left unsurveyed by the Armed Services Committee," the report said, adding that only half of the Department's research funds were currently covered by the authorization requirement governing funds for ships, planes and missiles.

Missiles. The Committee approved $146 million for Minuteman facilities, chiefly at the Grand Forks, N.D., base, and $8 million for Titan III and satellite control research at Cape Canaveral.

RELATED DEVELOPMENT -- The New York Times June 5 reported that the Defense Department had requested the Committee to authorize construction of a "post-attack" command headquarters a mile underground for use in case of nuclear war, at an estimated cost of $100 million. The project was not mentioned in the Committee report.

TREASURY-POST OFFICE FUNDS

The House and the Senate June 4 adopted, by voice votes, the conference report on the Treasury-Post Office Appropriation bill for fiscal 1964 (HR 5366 -- H Rept 353). The action cleared the first fiscal 1964 appropriation bill for the President's signature.

HR 5366 appropriated $6,045,466,000 for the Treasury and Post Office Departments, the Executive Office of the President and three related agencies. In addition, an estimated $10,165,230,000 would be spent by the Treasury under its authority for permanent appropriations and trust funds. Of this sum, $10,020,000,000 was estimated for interest payments on the public debt.

The total was $101,376,000 below the President's budget requests, and approximately $48 million more than the House initially approved and $24 million less than the Senate had provided. It exceeded the total appropriated for fiscal 1963 by $383,951,830.

The bill provided $3,925,000,000 for postal operations, including funds to extend postal delivery services and to hire more personnel. Other major appropriations were: $352.4 million for the Coast Guard, $552 million for the Internal Revenue Service and $611 million for Post Office transportation.

House and Senate conferees agreed to the final version after a compromise was reached on a figure for postal operations. The House April 4 had cut the operations' budget request for $3,959,814,000 by $70 million. (Weekly Report p. 560) The Senate May 8, under pressure from Postmaster General J. Edward Day and postal employees' unions to restore the House cut so that postal delivery service would not have to be curtailed, recommended $50 million more than the House had allowed. (Weekly Report p. 705) Conferees agreed to an appropriation that was $35 million over the House bill and $15 million less than the Senate bill. Day said he would do his "best" with the appropriation.

Other major differences that were resolved in conference:

- Senate conferees accepted the House appropriation of $51 million for Coast Guard acquisition, construction and improvements, $3,750,000 less than the Senate allowance, which had authorized construction of three rather than two medium endurance cutters.
- Conferees approved $552 million for IRS, $6 million above the House bill and $3.2 million less than the Senate bill.
- House conferees accepted the Senate appropriation of $12 million for postal research and development, an increase of $500,000 in their allowance.
- Conferees agreed to a compromise $190 million for postal facilities, $5 million more than the House bill and $250,000 less than the Senate bill.

On the Senate floor, Minority Leader Everett McKinley Dirksen (R Ill.) commended Senate conferees for their efficient handling of the bill, but said the final version "falls far short of what we (Republicans) thought our objectives and goals were going to be."

PROVISIONS -- The breakdown of funds in HR 5366 as sent to the President:

TREASURY	
Office of the Secretary	$ 5,000,000
Bureau of Accounts	34,800,000
Bureau of Customs	72,370,000
Bureau of the Mint	7,500,000
Bureau of Narcotics	5,350,000
Bureau of Public Debt	48,000,000
Coast Guard	352,400,000
Internal Revenue Service	552,000,000
Office of the Treasurer	16,700,000
U.S. Secret Service	8,930,000
Public Enterprise Funds	600,000
Subtotal	$1,103,650,000
POST OFFICE	
Administration and regional operation	$ 83,500,000
Research, development and engineering	12,000,000
Operations	3,925,000,000
Transportation	611,000,000
Facilities	190,000,000
Plant and equipment	104,000,000
Subtotal	$4,925,500,000
EXECUTIVE OFFICE OF THE PRESIDENT	
Compensation of the President	$ 150,000
The White House Office	2,730,000
Special Projects	1,500,000
Executive Mansion Grounds	671,000
Bureau of the Budget	6,500,000
Council of Economic Advisers	615,000
National Security Council	575,000
Emergency Fund for the President	1,000,000
Expenses of management improvement	100,000
Subtotal	$ 13,841,000
INDEPENDENT AGENCIES	
U.S. Tax Court	$ 1,890,000
Advisory Commission on Intergovernmental Relations	385,000
President's Advisory Committee on Labor-Management Policy	200,000
Subtotal	$ 2,475,000
TOTAL	$6,045,466,000

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ADMINISTRATION BILL AWAITED AS RIGHTS ACTIONS CONTINUE

As Negro civil rights demonstrations continued across the country and Congress girded itself for early legislative action, the Kennedy Administration June 3 decided to postpone until the week of June 10 the submission to Congress of its revised civil rights program. Reports indicated the Administration would recommend a two-part package, one part designed to end discrimination in public accommodations or businesses that deal in a significant way with interstate commerce, and a second part to speed school desegregation. The original plan had been for Attorney General Robert F. Kennedy to present the updated Administration program at June 6 hearings of the House Judiciary Committee. A Western trip of the President, starting June 5, plus difficulties in drawing up the proposed legislation, were said to have caused the postponement to the week of June 10 when the new proposals will probably be sent to Congress in a special Presidential message. There were also reports the Administration might want time to confer with Congressional Republicans whose votes would be needed to dislodge a civil rights bill from the House Rules Committee and to break a likely Senate filibuster.

Congressional Pressures

June 3 -- Commenting on a Memorial Day address by Vice President Johnson in Gettysburg, Pa., in which Johnson said whites and Negroes must work together, within the law, for early civil rights action, Sen. Kenneth B. Keating said that "unless he (Johnson) reverses his pro-filibuster rulings, civil rights legislation will be in real trouble." Johnson Jan. 30 had made a ruling during a Southern filibuster against cloture rule revision which angered liberal Republicans and Democrats. (Weekly Report p. 109)

June 3-4 -- Twenty-six House Republicans introduced a bill designed to end segregation in stores, theaters, restaurants and other public accommodations on the basis of 14th Amendment guarantees. The bill also contained the Title III section, removed by the Senate from the 1957 Civil Rights Act, empowering the Attorney General to file suits on behalf of individuals who claim deprivation of 14th Amendment rights. At a news conference the principal sponsors of the GOP bill -- Reps. John V. Lindsay (R N.Y.), Clark MacGregor (R Minn.), Charles McC. Mathias (R Md.) and William T. Cahill (R N.J.) -- said that the public accommodations section of their bill, based on the 14th Amendment, would have wider application than the measure the Administration reportedly planned to propose. Lindsay and MacGregor made the same points in special orders on the House floor at the end of the legislative day June 4, charging that it had "taken rioting in the streets to bestir the Administration into some kind of action." Democrats John Bell Williams (Miss.), Wayne L. Hays (Ohio), Robert A. Everett (Tenn.) and James Roosevelt (Calif.) sought to disrupt the Republican presentation by repeated demands for quorum calls and motions to adjourn the House. The motion to adjourn was defeated by a 98-105 standing vote and a 53-277 roll-call vote. Majority Leader Carl Albert (D Okla.) subsequently said that the Democratic majority respected "the rights of the minority Members" and "has stayed here and has voted against adjournment and has protected the rights of the minority Members." (For roll-call vote, see p. 948).

June 5 -- The Senate Republican Conference, following five hours of secret debate, issued a declaration saying it would support "further appropriate legislation" in the civil rights field. (For text of statement, see box). Sen. Jacob K. Javits (R N.Y.) had pressed the Conference to take the unusual step of issuing a public policy declaration. He had also sought to obtain a Conference pledge to vote for cloture to cut off a prospective Southern filibuster, but was unsuccessful in that regard. Sen. Barry Goldwater (R Ariz.) and several other party conservatives were said to have questioned the necessity of any civil rights legislation. The original draft of the Conference statement, said to represent a "consensus" of at least a majority of Republican Senators, was written by Minority Leader Everett McKinley Dirksen (R Ill.). Javits said he was satisfied that the party had made a "material step forward" in the quest for strong civil rights legislation.

The New York Herald Tribune in a front page editorial June 5 said: "It is time the President of the United States stopped conferring and started telling the nation exactly where he stands on the issue of equality.... It is time the Congress of the United States forbade, by clear statute embodying the intention of the founders of this country, any discrimination, any inequality that strikes at fellow citizens in the public sphere of life..."

Supreme Court Actions

The Supreme Court June 3 ruled in two cases, considered together, that transfer provisions of desegregation plans of two Tennessee local Boards of Education violated the equal protection clause of the 14th Amendment.

The cases (Goss v. Knoxville Board of Education and Maxwell v. Davidson County Board of Education) concerned provisions in the two Board's desegregation plans drawn up to satisfy the school desegregation decree set down by the Supreme Court in its 1954 decision in Brown v. Board of Education. The provisions permitted a student to transfer from an integrated school where his race was in the minority to a school where his race was in the majority.

Speaking for the unanimous Court, Justice Tom C. Clark said: "The right of transfer, which operates solely on the basis of racial classification, is a one-way ticket leading to but one destination, i.e., the majority race of the transferee and continued segregation."

In another decision June 3, the Court:

Ruled 8-1 that a student could seek federal relief in a school segregation case even if he had not exhausted

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GOP Statement

Following is the text of the June 5 statement of the Senate Republican Conference:

The Federal Government, including the Legislative, Executive, and Judicial branches, has a solemn duty to preserve the rights, privileges, and immunities of citizens of the United States in conformity with the Constitution which makes every native born and naturalized person a citizen of the United States as well as of the state in which he resides.

Equality of rights and opportunities has not been fully achieved in the long period since the Fourteenth and Fifteenth Amendments to the Constitution were adopted and this inequality and lack of opportunity and the racial tensions which they engender are out of character with the spirit of a Nation pledged to freedom and justice.

Since the days of Abraham Lincoln, the first Republican President, the God-given rights of life, liberty, and the pursuit of happiness have been cardinal principles of the Republican faith, and the equal opportunity to obtain these rights has consistently and uninterruptedly been reaffirmed in the platform of the Republican Party.

For the first time in more than fourscore years civil rights legislation of a meaningful character and purpose was placed on the Federal statute books as a result of the initiative of Republican leadership in Congress and President Eisenhower.

Republican members of the United States Senate in this the 88th Congress reaffirm and reassert the basic principles of the Party with respect to civil rights and further affirm that the President, with the support of the Congress, consistent with his duties as defined in the Constitution must protect the rights of all United States citizens, regardless of race, creed, color, or national origin.

We deem it the President's duty as provided in the Constitution to enforce the laws insuring the rights of citizens of the United States and preserving domestic tranquility as basic objectives of constitutional government.

In pursuance of these objectives, we as Republican members of the Senate will support further appropriate legislation required to help solve the problems in our Nation in the field of civil rights.

local administrative remedies if such remedies did not appear to be "sufficiently adequate." The case (McNeese v. Cahokia, Ill. School District) was brought before the Court by a Negro student who alleged that his school, with 251 Negro students and 254 white students, remained segregated within the school building. The case was heard by the Court on the grounds that the student was uncertain of the outcome of his case under Illinois law. Justice John Marshall Harlan dissented.

Executive Action

President Kennedy June 4 issued orders to prevent racial discrimination in federal and federally-aided construction programs. In a special statement the President called for review of all such programs in order to assure nondiscrimination, and in addition ordered the Secretary of Labor to require that admission practices in federal apprenticeship programs be nondiscriminatory.

The President also said he would "shortly issue an Executive Order" extending the authority of the Committee on Equal Employment Opportunities, headed by Vice President Lyndon B. Johnson, to prevent racial discrimination in "construction of buildings and other facilities undertaken wholly or in part as a result of federal grant-in-aid programs." (The Committee currently has such authority when dealing with projects directly handled by the Federal Government. The order would also include local, state and private projects which are only partially financed by the Government.) Mr. Kennedy said the order was necessary because "although many construction programs undertaken by states, local governments and private agencies participating in federal grant-in-aid programs contain non-discrimination requirements, practices and enforcement have not been uniform." He said "denial of the right to work is unfair, regardless of its victim. It is doubly unfair to throw its burden most heavily on someone because of his race or color."

Other civil rights developments:

Meeting with Businessmen. In one of a series of meetings, the President and other Administration officials June 4 met with 100 leading businessmen and urged them to take the lead in voluntary desegregation of public accommodations. Several who attended said the President had hinted that if desegregation were not implemented voluntarily, he would insist on new civil rights legislation.

Negro at Mississippi. A second Negro student, Cleve McDowell, 21, June 5 entered the University of Mississippi law school without incident. (For details of admission of the first, see 1962 Almanac p. 243) He was enrolled under orders issued June 4 by Federal District Judge Sidney C. Mize, who had in 1962 denied admission of the first Negro, James Meredith, but was later overruled. Mize said he was "convinced that the man is qualified." He announced his decision shortly after receiving an affidavit from Mississippi Gov. Ross Barnett, a staunch segregationist, warning that "increased unrest and disturbances" probably would accompany McDowell's admission. The unrest did not materialize, but Barnett announced in a television appearance June 5 that although he was opposed to desegregation, "the state of Mississippi cannot cope with the United States Army or the federal armed forces. It would be unwise and futile for the state of Mississippi to enter into a physical or shooting combat with the United States Army." Because of the riots which accompanied Meredith's 1962 arrival at the University, approximately 300 soldiers, 20 deputy federal marshals and several FBI agents were present on the campus June 5. After McDowell's peaceful enrollment, Attorney General Robert F. Kennedy said he was "extremely pleased."

Wallace Injunction. Judge Seybourn H. Lynne June 5 ruled that Alabama Gov. George C. Wallace had "no authority" to block racial integration of the University of Alabama June 10. (Weekly Report p. 837) At the request of the Justice Department Lynne granted an injunction barring Wallace from attempting to carry out a May 21 promise that he would "be present to bar the entrance of any Negro who attempts to enroll at the University of Alabama." (Weekly Report p. 801) In a television appearance that day, Wallace said he would take action which "involves even my personal freedom," but did not elaborate.

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WALTER DIES; WILLIS TAKES UN-AMERICAN ACTIVITIES POST

Rep. Francis E. Walter (D Pa.), chairman of the House Un-American Activities Committee, died May 31 of leukemia at the age of 69. Walter was born May 26, 1894 in Easton, Pa. A successful corporation lawyer, banker and businessman, he was elected to Congress in 1932 from Pennsylvania's 15th District.

Walter had served in Congress continuously since 1933 and at the time of his death, in addition to being Un-American Activities Committee Chairman, was ranking member of the House Judiciary Committee and chairman of its Subcommittee on Immigration and of its Special Subcommittee on Administrative Procedure, a member of the Joint Committee on Immigration and Nationality Policy, chairman of the Democratic Caucus (House Democratic leadership) and chairman of the Patronage Committee which dispenses Capitol jobs. His interests centered chiefly on subversive activities and on immigration policies. He considered his legislative monument the 1953 McCarran-Walter Immigration and Nationality Act, which admits immigrants under quotas based on the 1920 ratio of foreign-born in the U.S. population.

Under Pennsylvania law the Governor must call a special election to fill the vacancy.

Successors. Succeeding Walter as Chairman of the Un-American Activities Committee, is Rep. Edwin E. Willis (D La.), currently ranking committee member. (For biography, see below) Other successors are uncertain. Probable next head of the Immigration subcommittee is its ranking member, Rep. Michael A. Feighan (D Ohio), although Judiciary Committee Chairman Emanuel Celler (D N.Y.) is under no obligation to fill the post on the basis of seniority. The same applies to the new chairman of the Special Subcommittee on Administrative Procedure, although Rep. E.L. Forrester (D Ga.) is next in line if the choice is based on seniority.

The Patronage Committee chairmanship is likely to go to one of the two remaining members of the Committee, Rep. Harry R. Sheppard (D Calif.) and Rep. Joe L. Evins (D Tenn.). Sheppard is also being considered for Chairman of the Caucus, along with Reps. Carl Vinson (D Ga.), Eugene J. Keogh (D N.Y.) and Wilbur D. Mills (D Ark.).

Willis Biography

The new Un-American Activities Committee Chairman, Edwin Edward Willis (D La.), 58, was born Oct. 2, 1904 in Arnaudville, La., the son of Olanda and Julia Hardy Willis. He attended St. Martin Parish, La. public schools and in 1926 received an LL.B. degree from Loyola University. He was married Dec. 9, 1929 to Estelle Bulliard. They have a son, Bob. Willis is a Roman Catholic and is state board of review district chairman of the Boy Scouts of America, vice chairman of the Louisiana Conference on Social Welfare, and a member of the Louisiana Bar Assn., the Knights of Columbus and the Rotary Club.

After his graduation from Loyola, Willis in 1926 began to practice law in New Orleans. He continued there for 11 years, practicing law by day and conducting special law lectures at night until 1936, when he moved to St. Martinville in St. Martin Parish. There, in addition to his law practice, he raised sugar cane, cotton and sweet potatoes on a 1,000-acre plantation. In 1948 he was elected state senator and served until his election to the U.S. House at the end of that year. His District, the Louisiana 3rd, stretches along the Gulf coast. Negroes constitute about one-fifth of the registered voters.

House Career. Since arriving in Washington Willis, like Walter, has served on the Judiciary Committee and (since 1955) the Un-American Activities Committee. Like Walter, Willis has strongly supported tightening of many immigration laws and strict internal security measures. He says he plans no changes in the policy of the Committee as it was run by Walter. His other interests have included a variety of bills both directly and indirectly concerning states' rights, and tidelands oil and other matters affecting Louisiana -- including, in 1959, a program for water hyacinth eradication in eight Southern states. During his tenure he has opposed civil rights legislation just as Walter has supported it, although in 1963 he resisted a request of an on-the-spot investigation of "subversion" in connection with the Birmingham, Ala., racial demonstrations.

In 1949 Willis strongly opposed a bill legalizing certain practices in the "basing point" pricing system for commodities and tried four times to amend it to "prevent price discrimination." In 1950 he, like Walter, fought for legislation giving control of the marginal belt of tidelands oil to the states, and control of the continental shelf to the United States. They both supported similar legislation in 1951.

In 1952, after Walter's Immigration and Nationality Act had been vetoed by President Truman, Willis voted to approve the bill over the President's veto. After that time Walter, Willis and others relied heavily on the Act's provisions in their attempts to limit immigration and to curb "un-American" activities.

Willis joined Walter in 1953 in signing a Judiciary Committee minority report opposing legislation to admit 214,000 refugees without regard for the quotas set up in the Immigration and Nationality Act. Their minority views said the bill "involves incalculable danger to this nation." They said if the would-be immigrants were "true and proven anti-Communists," they should "remain in Europe close to the Iron Curtain, ready to help in the liberation of their kin." Also in 1953 Willis was unsuccessful in offering an amendment to the Submerged Lands Act to eliminate an authorization for the Federal Government to control mineral development on the continental shelf outside of traditional state boundaries.

In 1954 Willis sponsored an amendment to a wiretapping bill to require the Attorney General to receive a federal court order before authorizing wiretapping but to permit use of already intercepted information without a court order.

In 1955 Willis supported revision of House committee rules to require a two-member quorum for a hearing, and sponsored sugar quota legislation to give domestic sugar producers a greater share of the market.

Willis signed the minority report in 1956 to the civil rights bill. His amendment to delete from it the subpena powers of the Civil Rights Commission, to require the Commission to consult with governors and other state officers, and to delete provisions for an Assistant Attorney General, was defeated. In other actions involving civil rights, he signed the Civil Rights Manifesto against civil

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rights legislation, and the "Declaration of Constitutional Principles," a manifesto against school integration.

In 1957 he actively supported a bill restricting disclosure of Government files in criminal cases.

Willis in 1958 was appointed chairman of a Judiciary Committee Special Subcommittee to Study the Decisions of the Supreme Court of the U.S. The scope of the study was limited to 1957 Supreme Court decisions, and in particular the Mallory Rule relating to delay in arraignment of arrested suspects. Following the study, legislation to reverse the Court ruling was approved in both chambers, but was killed late in the session. (For details, see 1958 Almanac p. 295) In another case of Congressional dissatisfaction with Supreme Court rulings, Congress took partial action to restrict the Court's powers in a "states' rights" bill that would have limited the Court's right to strike down state laws under the doctrine of federal legislative preemption. An amendment by Willis, adopted by the House, sought to include the text of another bill specifying that no law already passed by Congress should be construed as indicating Congressional intent to invalidate state subversive activities laws. Walter also supported the amendment and the bill.

In a 1959 minority report Willis again opposed a civil rights measure. In addition, he sponsored a Mallory Rule bill which was strongly opposed by Celler, who said had the Mallory case not involved "a Negro, had it not been a case of rape, you would never have heard of this case." Walter also supported the bill.

In 1960 he offered restrictive amendments, all of which were rejected, to the civil rights bill dealing with a referee plan for Negro voting.

In 1961, along with 15 other Southern Democrats, Willis switched his position to support the Administration position on the conference report on minimum wage legislation. In 1962 he opposed the Administration's poll tax legislation in minority views.

This year Willis has been acting Chairman of the Un-American Activities Committee during Walter's illness. In that capacity he successfully managed a bill providing a legislative basis for personnel security procedures of the National Security Agency. Also as acting chairman, Willis May 14 rejected a request by Alabama Congressmen for a Committee investigation into the racial demonstrations in Birmingham. In a letter Willis said in view of the "acute aspects" of the situation, the Committee believed it should have the "benefit of the reports" from local, state and federal investigators before starting any investigation. He also said if "evidence is submitted or can be established" of subversion in the case, the Committee would "certainly consider taking appropriate action."

In addition, Willis in early 1963 supported permanent expansion of the House Rules Committee from 12 to 15 members. He and other Louisiana Representatives who voted for the change issued a statement that the Administration victory was a "deserved defeat for those timid fearful people who do not trust the collective judgment of 435 Republicans and Democrats." Willis is currently chairman of the Judiciary Subcommittee No. 3, which deals with patents, trademarks, copyrights and law revision, and he is chairman of Judiciary's Special Subcommittees on Submerged Lands and on State Taxation of Interstate Commerce.

CQ's 1962 voting studies showed that during the 87th Congress Willis supported a larger role for the Federal Government on 50 percent of selected roll-call votes, and supported a smaller Federal Role on 44 percent. He voted with the Conservative Coalition on 49 percent of the roll calls on which it appeared during the 87th Congress, and against the Coalition on 28 percent. On those votes on which President Kennedy took a position, Willis supported him 64 percent of the time and opposed him 17 percent of the time. In a CQ study of ratings of Congressmen by six political pressure groups, Willis voted with the Americans for Democratic Action on 50 percent of 10 selected issues in 1961; with the Committee on Political Education on 73 percent of 11 selected issues in 1961-62; with the position taken by the National Farmers Union on 70 percent of 10 selected issues in 1961-62; with the American Farm Bureau Federation on 45 percent of 11 issues in both years; with Civic Affairs Associates on 30 percent of 10 issues in both years and with the Americans for Constitutional Action on 26 percent of 23 selected issues in 1961-62. (1962 Weekly Report p. 2022)

Evins Biography

Rep. Joe L. Evins (D Tenn.), 52, became chairman of the House Select Small Business Committee Jan. 31 when the House adopted a resolution (H Res 17) to establish the Committee. Evins, a member of the Committee since 1949 replaced former chairman Wright Patman (D Texas) who became chairman of the Banking and Currency Committee (Weekly Report p. 299). Evins also is in possible line to succeed the late Rep. Francis E. Walter as chairman of the House Patronage Committee.

Joseph Landon Evins was born Oct. 24, 1910 on a farm near Liberty, Tenn. He attended De Kalb County public schools and was graduated from Vanderbuilt University in 1933. After his graduation from Cumberland University Law School in 1934, he was admitted to the bar and commenced practice in Smithville, Tenn. He served as an attorney in the Bureau of Investigations of the Federal Trade Commission 1934-41 and as Assistant Secretary of the FTC in 1938-40.

During World War II Evins served on the staff of the Judge Advocate General of the Army and in the European Theater of Operations until discharged as a major in 1946.

The son of a Tennessee politician, Evins began his career in Democratic politics in 1944 when he became chairman of the DeKalb County Executive Committee and alternate delegate to the Democratic National Convention. He was appointed delegate to the Democratic National Convention in 1948, 1956 and 1960.

Evins was elected to the 80th Congress Nov. 5, 1946 after having unseated the incumbent Democrat, Harold H. Earthman, in the primary. In his campaign he urged increased aid for the aged, hospital facilities for disabled veterans, extension of Social Security benefits, and federal aid to education.

A member of the Church of Christ, Evins is married to the former Ann Smartt of Smartt, Tenn. He has three daughters.

House Career. Evins, who is currently serving his ninth term in the House, is a member of the powerful Appropriations Committee and serves on the Public Works Appropriations and Independent Offices Appropriations Subcommittees. He was a member of the Veterans Affairs Committee in 1947-56.

In his 1962 campaign for reelection, Evins said "My assignments place me in a position to be of much value to our state." The projects authorized during his

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tenure on the House Appropriations Committeee include: "securing appropriations to construct the great Barkley Dam now under construction on the Cumberland River; the new $17.5 million Veterans Hospital now nearing completion at Nashville for the benefit of all the veterans of Middle Tennessee; the Cordell Hull and Percy Priest Dam projects soon to be constructed; programs of the Tennessee Valley Authority; the Atomic Energy Commission; and the Arnold Engineering Development Center." Evins sponsored a bill (HR 10012) enacted in 1962 which waived existing law so as to allow construction of a new federal courthouse at Winchester, Tenn.

As chairman of the investigative Small Business Committee -- this Select Committee, created at the beginning of each Congress, has no legislative powers -- Evins said he planned to look for ways in which small business concerns can "become big business." In a March 12 press conference he outlined the objectives of the Committee: to assist small business to obtain a larger share of government research and development contracts, to find ways of making available adequate financing assistance, to help small business increase its participation in foreign trade, and to study the effect of the Trade Expansion Act on small businesses.

Congressional Quarterly's 1962 study of selected "Federal Role" votes showed that Evins supported a larger Federal Role during the 87th Congress 78 percent of the time, opposed it 17 percent of the time. The Conservative Coalition study showed Evins supported the Conservative Coalition during the 87th Congress on 36 percent of the roll calls in which the coalition appeared, and opposed it on 38 percent. Presidential support study showed that Evins supported the President's position on 62 percent of the roll calls on which the President took a stand, and opposed it on 7 percent.

Pressure groups rated Evins as follows in 1962: Americans for Democratic action, 70 percent; Committee on Political Education (AFL-CIO), 82 percent; National Farmers Union, 80 percent; American Farm Bureau Federation, 27 percent; Civic Affairs Associates, 10 percent; and Americans for Constitutional Action, 16 percent. (1962 Weekly Report p. 2023)

SUPREME COURT DECISIONS

The Supreme Court June 3 brought an end to the lengthy litigation of a dispute between Arizona and California over Colorado River water rights. Its decision encouraged new efforts among Arizona Congressmen to seek authorization of a controversial billion-dollar water project for Central Arizona. (See Fact Sheet, p. 932)

The Court's involvement in Arizona v. California was to interpret the provisions of the Boulder Canyon Project Act of 1928 which authorized the Secretary of Interior to construct and operate a dam for flood control of Colorado River water in the Lower Basin, and to apportion the River's waters "for beneficial uses," diverting 4,400,000 acre-feet for California, 2,800,000 acre-feet for Arizona and 300,000 acre-feet for Nevada.

In the suit, California, which sought a guaranteed 5,400,000 acre-feet annually, contended that the Act conflicted with previously established principles of water diversion, namely: the "first-come, first-served" principle of prior appropriation; the doctrine of equitable apportionment by which the Supreme Court resolves conflicting interstate claims; and the Colorado River Compact of 1922, which provided that the state could enter into interstate compacts for the purposes of regulating the diversion of water.

Also related to the case were questions concerning the extent of the Interior Secretary's authority under the 1928 Act, and whether a state could draw its apportionment from only the river's mainstream or from the mainstream and its tributaries.

The Court ruled: (1) 7-1, the Congressional scheme of apportionment, under the 1928 Act, superseded all other principles of diversion; (2) 5-3, the Secretary, while limited by the provisions of the 1928 Act, was "free" to choose apportionment of water in times of shortage; and (3) 7-1, a state's apportionment was to be drawn from only the mainstream, leaving the tributaries to "the exclusive use of each state."

The Court's opinion, by Justice Hugo L. Black, said: "Where Congress has so exercised its constitutional power over waters, courts have no power to substitute their own notions of 'an equitable apportionment' for the apportionment chosen by Congress." "It is only natural," Black said, that since the U.S. made the benefits of flood control projects available and accepted the responsibility for them, "it would want to make certain the waters were effectively used."

Justices John Marshall Harlan, William O. Douglas and Potter Stewart dissented in the Court's opinion of the Secretary's authority. They said such authority would "result in a single appointed federal official being vested with absolute control, unrestrained by adequate standards, over the fate of a substantial segment of the life and economy of three states."

Douglas, dissenting in the whole opinion, said the decision "grants the federal bureaucracy a power and command over water rights in the 17 Western states that it never has had, that it always wanted, that it could never persuade Congress to grant, and that this Court up to now has consistently refused to recognize."

Chief Justice Earl Warren, a former governor of California, did not participate in the decision.

OTHER DECISIONS

In addition to school segregation (p. 927) there were these other June 3 Supreme Court actions:

Held unanimously in a case (National Labor Relations Board v. General Motors Corp.) that an employer cannot refuse to bargain over an agency shop contract (under which employees need not join a union but must pay it the equivalent of initiation fee and dues) on the theory that he would be committing an unfair labor practice in states which have right-to-work laws. Justice Arthur J. Goldberg did not participate in the case.

Held unanimously (Retail Clerks Local 1625 v. Schermerhorn) that a state, in this case Florida, which has a right-to-work law, could prohibit agency shop agreements under terms of the Taft-Hartley Act of 1947. The Court declined to rule as a part of the case whether state courts or the NLRB had the right to enforce the state's prohibition of such arrangements. Goldberg did not participate.

Ruled 6-3 (Wheeldin and Dawson v. Wheeler) that the misuse of unauthorized subpena power by an investigator for the House Un-American Activities Committee did not involve an abuse of federal law, but should be considered under state law. Chief Justice Earl Warren, Justices Hugo L. Black and William J. Brennan Jr. dissented.

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ARIZONA SEEKS BILLION-DOLLAR WATER PROJECT

Arizona Sens. Carl Hayden (D) and Barry Goldwater (R) and the three House Members of the Arizona delegation June 4 introduced legislation (S 1658; HR 6796, 6797, 6798) to authorize the billion-dollar Central Arizona project, one of the largest water project proposals ever to come before Congress. During his campaign for re-election to the Senate last year, Hayden made Central Arizona one of the issues in his campaign. If reelected, he promised to work for the project's authorization. Toward that end this year the 85-year-old dean of the Senate sought and won a seat on the Senate Interior and Insular Affairs Committee as a very "junior" member. Project supporters are relying heavily on Hayden to get the bill through Congress.

The Bureau of Reclamation first reported that the Central Arizona project was feasible (i.e., benefits outweighed costs) in 1947. Under Hayden's sponsorship bills authorizing the project passed the Senate in 1950 and in 1951, but they failed to clear the House Interior and Insular Affairs Committee because of a legal cloud on Arizona's entitlement to Colorado river water. The Committee on April 18, 1951 agreed to a motion by Rep. John P. Saylor (R Pa.) postponing action on the legislation "until such time as use of water in the lower Colorado River Basin is either adjudicated or binding or mutual agreement as to the use of the water is reached by the states of the lower Colorado River Basin." (1950 Almanac, p. 659-660; 1951 Almanac, p. 482-3) In 1952 Arizona filed a suit (Arizona v. California) in the Supreme Court to establish its entitlement to Colorado river water. A court-appointed special master, Simon H. Rifkind, recommended to the Supreme Court May 5, 1960 that Arizona's allotment of water from the mainstream of the Colorado river be 2,800,000 acre-feet annually, not including the flow of the tributary Gila river. The Supreme Court on June 3 substantially upheld the Rifkind recommendation in the Arizona v. California water suit. (See preceding page)

Court Decision Prompts Bill

Hayden introduced his bill immediately after the Supreme Court decision. The bill authorizes a diversion of 1,200,000 acre-feet of water annually out of the Colorado river to provide supplemental irrigation water and municipal water to central and Southern Arizona. It authorizes the construction of five dams and reservoirs, two power plants, transmission and distribution facilities on the Colorado river and its tributaries in Arizona and Western New Mexico. The key unit to the project is a 740-foot high dam at Bridge Canyon on the Colorado river at the headwaters of Lake Mead. It would be the highest dam in the Western Hemisphere. The Bridge Canyon power-plant would have an installed capacity of 1,500,000 kilowatts, and one-third of its capacity would be transmitted south to pump water over a backbone canal and aqueduct system from the existing Parker Dam on the Colorado river 219 miles to the Phoenix area and 341 miles to Tucson.

A supplemental report on the project released by the Bureau of Reclamation to the state of Arizona in January, 1962, estimated that the Central Arizona project would provide supplemental water to irrigate 880,000 acres of land in Arizona and would provide 303,000 acre-feet of municipal and industrial water for 1,100,000 people, primarily in the Phoenix-Tucson areas.

In the 15-year period that elapsed between the two Bureau reports on the project, Arizona has grown from a population of about 700,000 to 1,400,000, and lands under irrigation in Central Arizona from about 566,000 acres to more than a million acres. U.S. Geological Survey data indicates that Arizona is "mining" its underground water supply at an alarming rate. The ground water level is presently dropping at the rate of 10 feet a year in the Phoenix area and at the rate of 20 feet a year in adjoining Pinal county. In some areas wells are going dry or saline water is seeping into them, making them unusable, and the ground is subsiding from over-pumping. C.A. Pugh, area engineer of the Bureau of Reclamation at Phoenix, estimates that the overdraft of ground-water basins in the state now totals 2,200,000 acre-feet annually. The net delivery of water from the Central Arizona project would be only 1,070,000 acre-feet of water annually, so it could not possibly make up more than half of the water deficit in the state at the present rate of use. Arizona appears to be heading into a water crisis, which could be only partially solved by authorization of the Central Arizona project.

Despite Arizona's need for an additional water supply, particularly in populous central and southern parts of the state, the Central Arizona project was one of the most controversial water proposals presented to Congress in the 1950s, and it remains so today. Congress historically has delayed final action on reclamation projects until leaders and all sections of a state are unified. Arizonans are not unified about the Central Arizona project.

As the project can make up only half of the present rate of deficiency, various areas and communities of the state will be competing for the water, either from the project itself or by exchange, as the division of water has not yet been determined. And Interior Secretary Stewart L. Udall, a former Member of the House from Arizona (1955-61), is dedicated to a comprehensive plan to develop the water and power resources of the Lower Basin states of California, Arizona and Nevada from a Lower Basin fund of pooled revenues from the power plants of Davis, Parker and Hoover Dams on the lower Colorado after Hoover dam is paid for, beginning in 1987, at the earliest. Central Arizona supporters are fearful that the Udall plan will delay action on their proposal.

Central Arizona may get snarled in still another legal battle, over the actual amount of unappropriated water still available in the Colorado river to the Upper and Lower Basin states. Some water experts in California and in the Upper Basin states question whether there actually is 1,200,000 acre-feet of unappropriated water available in the Colorado river for the proposed Central Arizona diversion.

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U.S. MIGRANT WORKERS

COMMITTEE -- Senate Labor and Public Welfare.

ACTION -- May 27 reported six bills (S 521 -- S Rept 201; S 522 -- S Rept 198; S 523 -- S Rept 200; S 524 -- S Rept 202; S 525 -- S Rept 203; S 526 -- S Rept 199) designed to improve the economic and social conditions of U.S. migrant farm workers and their families.

BACKGROUND -- The six bills were introduced Jan. 24 by Migratory Labor Subcommittee Chairman Harrison A. Williams (D N.J.). As reported, five of the bills, with the exception of technical changes and minor committee amendments, were the same as measures passed by the Senate, but not considered on the House floor, during the 87th Congress. A sixth bill, corresponding to S 526, was considered but not reported from the Senate Committee in 1962. (1962 Almanac p. 124)

The Subcommittee April 10, 23 and 24 held hearings on the six proposals and May 3 favorably reported all six bills to the full Committee. (Weekly Report p. 724)

The bills as reported from Committee:

EDUCATION AID. S 521, the Migrant Agricultural Employees and Children Educational Assistance Act of 1963, authorized a four-part, five-year program of federal grants to states and local communities for education of migrants and their children.

Majority Views. The majority said, "The inadequate education which (migrant) children receive is an inexcusable weakness in a nation which considers educational opportunity a fundamental ideal of democracy."

Minority Views. Sens. John G. Tower (R Texas) and Barry Goldwater (R Ariz.) said S 521 was an unjustified attempt to interject the Federal Government into the educational systems of states.

Major Provisions. The five-year authorizations were:

- $300,000 annually for grants to local agencies for summer-school education of migratory children.
- $250,000 annually for grants to local agencies for interstate planning and coordination of educational programs for migrant children.
- $200,000 annually for pilot programs in fundamental practical education for migrant adults.
- Federal repayment to state educational agencies for the cost of educating migratory children during the regular school year. No dollar limitation was set.

On the three children's programs, the Government was to pay full costs for the first two years, 75 percent for the third and fourth years and 50 percent for the fifth year. The Government would pay all costs of the pilot adult program.

DAY-CARE SERVICES. S 522 provided federal assistance to states for the establishment of day-care centers for children of migrant farm workers.

Majority Views. The report said there currently existed only 24 licensed day-care services for the over 50,000 children of migrant workers below age seven. It said S 522 would provide a "continuum in the educational development of the migrant child."

Major Provisions. S 522 authorized the appropriation of $750,000 annually for a three-year program of assistance to public and non-profit agencies to "pay part" of the cost of day-care services. It provided that grants would be made only to those facilities that met state licensing standards and prohibited the use of funds for a facility that imposed any condition of eligibility for the day-care of children.

Amendments. Committee amendments took the form of a substitute bill which deleted the matching grant formula of the original bill and, on the recommendation of the Health, Education and Welfare Department, made federal grants available to "pay part" of the costs of day-care centers.

CHILD LABOR. S 523 amended the Fair Labor Standards Act of 1938 to further limit the employment of children in agriculture.

Majority Views. The majority said the bill was designed to protect children from harmful child labor, while preserving the beneficial aspects of farm work.

Minority Views. Goldwater and Tower objected that the legislation would give the Secretary of Labor "too broad" discretionary authority in determining what employment of children was considered "hazardous work."

Major Provisions. S 523 amended the FLSA to bar agricultural labor by a child unless: (1) he worked for his parents on their farms, (2) he was 14 years or older or (3) he was 12 years of age or older and commuted to work daily with his parents or had their written consent to work within commuting distance. The bill also authorized the Secretary of Labor to bar children up to 18 from what he determined to be "particularly hazardous" work.

CREW LEADERS. S 524, the Farm Labor Contractor Registration Act of 1963, provided for annual federal registration of farm labor contractors (crew leaders) -- the middlemen in making work arrangements between 10 or more migrant workers and growers in interstate agricultural employment.

Majority Views. The majority said the legislation was necessary because migrant workers, "because of their dependency upon the contractors,...are particularly vulnerable to exploitation and abuse by irresponsible labor contractors."

Minority Views. Goldwater and Tower said the S 524 was not necessary "at this time," because the bill "with its detailed requirements" gave little recognition to existing state registration laws and their implementation.

Major Provisions. S 524 prohibited a person from acting as a farm labor contractor unless he possessed a valid registration certificate. It required persons seeking registration certificates to provide all personal information that the Secretary of Labor required, and to provide proof of their ability to respond to damages, either by possession of liability insurance or indication of intention to obtain such insurance. S 524 also provided that the Secretary of Labor might refuse, revoke or suspend any registration after a public hearing.

(Continued on next page)

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ADVISORY COUNCIL. S 525 provided for the establishment of a National Advisory Council on Migratory Labor to advise the President.

Majority Views. The majority said the Council would provide better understanding of conditions, needs and long-range solutions relating to migratory labor problems.

Minority Views. Goldwater and Tower said the Council was "unnecessary" because the President's Committee on Migratory Labor was already in existence. He said: "To challenge the effectiveness of the existing Committee is to challenge the need for a committee of a similar nature."

Major Provisions. S 525 authorized for five years, the establishment of a National Council on Migratory Labor, and to be composed of 15 members, appointed by the President, from private and public life. An appropriation of $50,000 annually was authorized to carry out the provisions of the bill.

SANITATION. S 526 amended the Public Health Service Act to provide for the establishment of a five-year program to assist farmers in providing adequate sanitation for migrant laborers.

Majority Views. The report said the "unhealthy, unsafe sanitation conditions prevailing where migrants live and in fields where they work are directly related to diarrheal disease and undermine the health of migrant families." It said the legislation would encourage state health officials to strengthen their enforcement of existing health codes.

Major Provisions. S 526 authorized $2,500,000 annually for five years for grants to assist states in surveying the need for and constructing adequate sanitation facilities for migrant laborers. The states could in turn make grants to farmers for up to 90 percent of the cost of construction of sanitation facilities. S 526 also authorized $500,000 annually for five years for grants to states for establishing and operating field sanitation demonstration projects.

RELATED DEVELOPMENT -- The House Education and Labor Committee June 4 reported a bill (HR 6242 -- H Rept 358), the Farm Labor Contractor Registration Act of 1963. HR 6242, introduced May 13 by Rep. Thomas P. Gill (D Hawaii), was substantially the same as S 524. (See above)

NATIONAL SERVICE CORPS

COMMITTEE -- House Education and Labor, Special Labor Subcommittee.

BEGAN HEARINGS -- On HR 5625, the Administration's bill to establish a National Service Corps, a limited domestic version of the overseas Peace Corps.

BACKGROUND -- A National Service Corps was requested by President Kennedy in his Feb. 14 Youth message, and HR 5625 was introduced April 11 by Rep. Frank Thompson Jr. (D N.J.). It called for a Corps of up to 1,000 members in the first year, rising to a maximum of 5,000 members by the third year. Corpsmen would be drawn from all age groups, be trained for about four weeks, and serve for one year. They would serve only at community invitation and would be used largely to supplement existing work by local agencies. Estimated first-year cost: $5,000,000. (Weekly Report p.632)

TESTIMONY -- May 22 -- Attorney General Robert F. Kennedy said the Corps was needed to aid the "invisible millions" of migrant workers, Indians, slum dwellers and mentally ill in the U.S. He said HR 5625 was "a challenge to people of all ages to follow the example of those in the Peace Corps -- to serve their nation by helping other citizens to help themselves."

Labor Secretary W. Willard Wirtz said the Corps would be "affirmation of the central principle that in a vast, complex society there is a great deal which must be done on an individualized, person-to-person basis." As an example of the sort of aid the Corps could give, Wirtz said the Cooperative Planning Council of Harlan County, Ky., had prepared a plan which would use corpsmen to work with chronic problems of undernourishment, illiteracy and school dropouts. Wirtz said that in Harlan County, a coal mining district which had had severe poverty problems since the 1930's depression, two out of three housing units were substandard and 85 percent of the youth were undernourished.

Secretary of the Interior Stewart L. Udall said the Corps would be as important "to lift the spirit of our people as to render tangible aid." He said the Corps would combat "pockets of neglect" in Samoa, Guam, the Virgin Islands and the Pacific Trust Territory (Micronesia) as well as the U.S. continent.

May 24 -- Capt. William R. Anderson, (USN, ret.) staff director of the President's Study Group on a National Service Corps, said the Corps would: help people to help themselves; provide "at home the stimulating new challenge so badly needed and desperately wanted by our young people;" reduce dependency on public welfare; influence more Americans to choose careers in the "helping professions"; and help the nation to "comprehend the plight of its unfortunate and act to end it once and for all."

Agriculture Secretary Orville Freeman said the Corps would supplement the Agriculture Department rural areas development program in revitalizing over 800 counties in the nation suffering from predominantly low income.

Peace Corps Director R. Sargent Shriver, in support of HR 5625, said he was "convinced that many thousands of Americans are ready to serve at home as well as overseas."

May 27 -- Henry Black Elk Jr., executive director of the Ogalala Sioux Planning Commission, submitted a program showing how the Corps could work to relieve "apathy and despair" among South Dakota Indians.

May 28 -- Secretary of Health, Education and Welfare Anthony J. Celebreeze supported establishment of the Corps and stressed that it would stimulate and implement, rather than supplant, local community efforts.

May 29 -- Representatives of the National Social Welfare Assembly, Tennessee Mental Health Department and New Jersey Health Department supported HR 5625.

RELATED DEVELOPMENT -- The Senate Labor and Public Welfare Migratory Labor Subcommittee May 28 began hearings on S 1321, companion to HR 5625. Substantially the same witnesses were heard as before the House committee.

Committee Change

The House May 29 named Rep. Richard H. Ichord (D Mo.) to the seat on the Un-American Activities Committee left vacant by the death of Clyde Doyle (D Calif.). (Weekly Report p. 618)

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ELECTORAL COLLEGE REFORM

COMMITTEE -- Senate Judiciary, Constitutional Amendments Subcommittee.

HELD HEARING -- June 4 on electoral college reform, a continuation of 1961 hearings on the same topic. (1961 Weekly Report p. 1402)

Subcommittee Chairman Estes Kefauver (D Tenn.) said the hearings were called to assess recent changes in the U.S. political balance of power which might affect the justification for the current electoral college system given by then-Sen. John F. Kennedy in 1956 Senate debate. Kennedy had said the electoral college was only one part of "a whole solar system of governmental power" and that if one considered altering one part of the system, "it is necessary to consider the others." Kefauver said reduction of conservative-rural influence in U.S. politics by rapid state legislative reapportionment in the wake of the 1962 Supreme Court decision in Baker v. Carr, plus a diminishing of conservative one-party states and areas, was changing part of the political solar system while the unit vote electoral college system, which is generally thought to give high political priority to the votes of big states with liberally-oriented urban populations, had not been changed. (Weekly Report p. 442)

Kefauver also wanted to consider chances that a Southern independent elector movement could disrupt the 1964 Presidential election and throw the election into the House of Representatives. Three states (Mississippi, Alabama and Georgia) have passed laws facilitating choice of unpledged electors under party labels, while one legislative chamber each in Florida and Louisiana have also approved such legislation.

TESTIMONY -- Prof. James MacGregor Burns, Williams College, said reform of the electoral college, though long a pressing problem, "has proved impossible because politicians have feared that it might upset or threaten political arrangements that they have found congenial, or at least predictable and dependable." Burns suggested two strategies to win reform. The first would be to take "the simplest, most controversial and most urgent aspect of electoral college reform -- abolition of electors and use only of electoral votes -- and make this part of a package of 'housekeeping' constitutional amendments that would arouse wide, bipartisan support."

An alternative strategy, Burns said, "is to confront directly the two forces battling over electoral college reform" -- those who believe the current system puts too much influence in liberally-inclined minority groups in big pivotal states, and those who believe the unit rule's "winner-take-all" mechanism has "gerrymandered" the Presidency -- "and to find a basis of reconciliation among them." A possible compromise, he said, would be a district system of casting electoral votes, with the office of elector abolished and enforcement of stiff standards to create equally populated, ungerrymandered Congressional districts which could also serve as elector districts.

Prof. Paul T. David, University of Virginia, reviewing reapportionment since Baker v. Carr, said that despite "an important change in some of the states affected, the total affect on the national (statistical) situation is still pretty modest" and "has certainly fallen far short of giving full equality of representation to urban residents, at least so far." David stressed the importance of further Supreme Court decisions spelling out criteria of acceptable apportionment and said he hoped stiff standards would be applied that could result in generally fair apportionment by the early 1970s.

Neal R. Peirce, political editor of Congressional Quarterly, reported on CQ findings on the national reapportionment picture since Baker v. Carr (see p. 943) and the outlook for Supreme Court action to force equal Congressional districts (p. 938). In his personal judgment, Peirce said, recent heavy, consistent national pressure for effective reapportionment, was in "striking" contrast to the situation before Baker. He doubted the success of any proposed electoral reform clearly intended further to "weight" the Presidential election machinery to the liberal or conservative side and said an amendment merely outlawing independent electors but preserving the "winner-take-all" unit system might fail for this reason. The likeliest reform, he said, would be one that appealed "to democratic ideals" such as direct popular election.

Prof. Robert G. Dixon Jr., George Washington Univ. Law School, said rural dominance in state legislatures and Congress may well have been exaggerated. "The basic issue, in terms of representation theory, is between majoritarian democracy and consensus democracy. Those who argue unabashedly for a 'one man-one vote' theory are in the camp of the majoritarian democracy and have little fear for a possible tyranny of the majority. Fifty-one percent shall rule. (But) the genius of our system... is that our political party system, our governmental structure, and our institutional habits have combined to give us a system in which major programs and major new directions cannot be undertaken unless supported by a fairly broad popular consensus.... The important question to ask about apportionment is not whether each district is of equal representation, but whether the end result...is to yield a system which is basically fair and reasonable and has broad popular acceptance."

SECURITIES DISAPPEARANCE

COMMITTEE -- House Banking and Currency.

ACTION -- May 29 issued a report of a special three-man subcommittee (H Rept 354) entitled, "The Mysterious Disappearance of $7.5 Million of U.S. Securities from Vault of the Federal Reserve Bank at San Francisco, Calif.", with additional full committee views.

BACKGROUND -- On March 27, the San Francisco Examiner printed an article which disclosed to the public for the first time that $7.5 million in Government securities had been missing since August 1962 from the Federal Reserve Bank of San Francisco. Upon learning of the story, Committee Chairman Wright Patman (D Texas) asked the Federal Reserve Board for verification of the loss.

Board Chairman William McChesney Martin Jr. April 1 submitted to Patman a statement that the disappearance was an "inadvertent" mistake made during disposal of envelopes in which the securities were stored. Martin said there was no indication that the securities were "intentionally removed" and that publicity was withheld to protect the negotiability and marketability of federal securities until a thorough investigation was made.

Patman April 4 appointed Reps. Henry S. Reuss (D Wis.), chairman, Charles A. Vanik (D Ohio) and Rep. Burt L. Talcott (R Calif.) as a special subcommittee to investigate the disappearance.

Majority Views. Based upon a hearing which they conducted at the San Francisco Federal Reserve Bank April 22, Reuss and Vanik concluded that "weak supervision"

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of custodial activities in the Bank and "inadequate" investigation of the loss by the Secret Service left the possibility of theft open to further consideration. They said that while no evidence indicated that the securities were "intentionally removed...it could be stated with equal authority, in our opinion, that there is no evidence to indicate that the certificates were accidentally discarded or burned." They said the Board had committed a "major" negligence in failing to notify the public and banking community of the disappearance so as to put innocent purchasers on notice.

Reuss and Vanik recommended: Improvement of custodial practices in Federal Reserve banks; more central direction by the Board of bank operating procedures; and external auditing of the banks, "similar to the kind of external audit by the General Accounting Office required for other independent agencies."

Minority Views. Talcott said he joined with Reuss and Vanik "only in the presentation of the true unadulterated and unembellished facts" concerning the investigation. The loss of $7.5 million "presents an open sesame for much concern, drama and conjecture," Talcott said, and "I trust" the investigation would not be a prelude "to an attempt to impose GAO auditing upon the historical independence of the Federal Reserve System."

Additional Views. The 13 Republican members of the Committee added views advising that the full Committee hold a "proper inquiry" on the subject of GAO auditing of the Federal Reserve System and standardization of security procedures, and suggesting that it would be "unwise" for the Committee to take a position until "extensive and complete" hearings were held.

TENTATIVE TAX ACTIONS

The House Ways and Means Committee continued to take tentative actions on President Kennedy's tax proposals. The decisions, for the purpose of drafting a bill, may be altered later. (Weekly Report p. 841)

May 28. Capital Gains Taxation. The Committee approved a reduction in the tax rate on capital gains, generally understood to mean the rise in the value of an asset since it was bought. The new provision would require a taxpayer to include in his taxable income 30 percent (instead of 50 percent as under existing law) of long-term capital gains. To qualify as a long-term capital gain, the asset would have to be held three or more years (rather than six months or longer as under existing law). The Committee said the 30 percent figure would apply only to "true" capital gains, the exact definition of which would be decided later. (The actual effective tax rate on capital gains under the new proposal would depend on what the Committee decides personal income tax rates will be. If it adopts President Kennedy's recommended range of 14 to 65 percent, the long-term capital gains rate would be 4.2 to 19.5 percent rather than the existing 10 to 25 percent. In any case, the maximum would be a fixed 19.5 percent.

The Committee's action would create three categories of taxation for capital gains. Gains on assets held less than six months would continue to be taxed at ordinary income tax rates, as under existing law. Gains on assets held six months to three years would be taxed on the basis of 50 percent of gain inclusion, which is the existing provision for all assets held at least six months. The third category would be the new 30 percent of gain inclusion approved by the Committee.

The Administration proposed reducing the inclusion rate to 30 from 50 percent for assets held more than one year. Gains on assets held less than a year would have been taxed at ordinary rates.

The Committee approved an Administration proposal to give persons suffering capital losses an indefinite period in future years in which they may credit the losses against other income.

Sale of Home. The Committee approved a proposal by Howard H. Baker (R Tenn.), second ranking Republican, to eliminate or reduce the capital gains tax that a person 65 or older now has to pay when he sells his home for more than he paid for it. If the home was his personal residence for at least five years, the taxpayer would not have to pay a tax on any capital gain attributable to the first $20,000 of the sale price. For a sale above $20,000, the portion of the gain taxable would be the same proportion as $20,000 is of the total sale price. Baker's proposal was similar to an amendment added to the 1962 Revenue Act on the Senate floor which was dropped in conference. (1962 Almanc p. 507)

Accrued Capital Gains at Death. The Committee rejected a controversial Administration proposal to apply a capital gains tax on the appreciation of capital assets in an estate at the time of their transfer at death or by gift. Instead, it approved a provision that would increase the tax an heir or a gift recipient would have to pay when and if he disposed of the assets.

For example, an individual buys $100,000 worth of stock which rises in value to $200,000 by the time he dies. Under existing law, his son, who inherits, does not pay a tax on the increased value. In addition, if the son later sells the stock, his capital gains tax would be on any increase in value above $200,000; i.e., the value at inheritance becomes the "basis" for later tax calculations. The President would have taxed, at capital gains rates, the $100,000 increase in value when the father died. The Committee provision would impose no tax at the time of death (or gift), but it would make the "basis" for future calculations the price the father paid ($100,000) plus any estate tax paid on the value of the bequeathed property. Thus, if the estate tax was $10,000, the "basis" for the son would be $110,000. If he sold the stock for $200,000, he would pay a capital gains tax on the difference -- $90,000. The Committee also specified that the combined length of time that the father and son owned the stock would be considered in determining in which of the three capital gains tax categories it would be taxed (see above).

No revenue estimate available.

CORPORATE, EXCISE TAXES

The House Ways and Means Committee June 4 approved an Administration bill (HR 6755) extending, through June 30, 1964 existing "temporary" corporate and excise taxes.

The taxes, scheduled to expire at the end of June at a cost of about $4 billion in lost revenue, were: corporation income, to 47 from 52 percent; cigarette, to 7 from 8 cents; liquor, to $9 from $10.50-a-gallon; automobiles, to 7 from 10 percent of the manufacturer's price; and auto parts and accessories, to 5 from 8 percent of the manufacturer's price. Taxes of 10 percent on local telephone service and 5 percent on air travel were scheduled to expire also. Most of the taxes were instituted during the Korean War and have been extended annually since 1954. (Weekly Report p. 50; 1962 Almanac p. 510)

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What's Ahead?

Dates are listed as released by sources and are sometimes subject to change.

Political Events

June 11 -- SPECIAL ELECTION in California 23rd Congressional District to fill vacancy caused by death of Clyde Doyle (D).

June 21-22 -- REPUBLICAN NATIONAL COMMITTEE, meeting, principal business of which will be selection of site for 1964 Republican Convention, Brown Palace Hotel, Denver, Colo.

June 25 -- DEMOCRATIC NATIONAL COMMITTEE, meeting, International Inn, Wash. D.C. On June 24 the Site Committee will discuss any amended proposals submitted by cities bidding for the 1964 convention, and the Committee to Recommend the Allocation of Delegates for the 1964 Convention will meet.

July 21-24 -- 55TH ANNUAL GOVERNORS' CONFERENCE, Deauville Hotel, Miami Beach, Fla.

Other Events

June 10-13 -- AMERICAN FEDERATION OF MUSICIANS (AFL-CIO), annual convention, Fontainebleau Hotel, Miami Beach, Fla.

June 10-14 -- COMMUNICATIONS WORKERS OF AMERICA (AFL-CIO), annual convention, Hotel Muehlebach, Kansas City, Mo.

June 10-14 -- INTERNATIONAL LEATHER GOODS, PLASTICS AND NOVELTY WORKERS UNION (AFL-CIO), annual convention, Traymore Hotel, Atlantic City, N.J.

June 24 -- RETAIL CLERKS INTERNATIONAL ASSN. (AFL-CIO), annual convention, Conrad Hilton Hotel, Chicago, Ill.

July 8 -- BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN (AFL-CIO), annual convention, Statler-Hilton Hotel, St. Louis, Mo.

July 8-12 -- AMERICAN NEWSPAPER GUILD (AFL-CIO), annual convention, Sheraton Hotel, Philadelphia, Pa.

July 15-19 -- INTERNATIONAL BROTHERHOOD OF OPERATIVE POTTERS (AFL-CIO), annual convention, Sahara Hotel, Las Vegas, Nev.

July 15-20 -- SWITCHMEN'S UNION OF NORTH AMERICA (AFL-CIO), annual convention, Hotel Statler-Hilton, Buffalo, N.Y.

Aug. 3-9 -- INTERNATIONAL TYPOGRAPHICAL UNION, annual convention, Lafayette Hotel, Long Beach, Calif.

Aug. 12-16 -- INTERNATIONAL UNION OF UNITED BREWERY, FLOUR, CEREAL, SOFT DRINK & DISTILLERY WORKERS, annual convention, Cincinnati, Ohio.

Aug. 19-23 -- AMERICAN FEDERATION OF TEACHERS, Annual Convention, Americana Hotel, New York, N.Y.

Aug. 19-23 -- INTERNATIONAL ASSN. OF MARBLE, SLATE & STONE POLISHERS, annual convention, Carillon Hotel, Miami Beach, Fla.

Aug. 19-23 -- INTERNATIONAL UNION OF OIL, CHEMICAL & ATOMIC WORKERS, ANNUAL CONVENTION, Pick Congress Hotel, Chicago, Ill.

Aug. 19-24 -- PHOTO ENGRAVERS UNION OF NORTH AMERICA, annual convention, Americana Hotel, Miami Beach, Fla.

STATUS OF APPROPRIATIONS, 88th CONGRESS, 1st SESSION

Agency	Weekly Report Page No.	Requested	HOUSE Committee	HOUSE Passed	SENATE Committee	SENATE Passed	Final
Agriculture		6,368,755,000	5,979,457,000				
Defense							
District of Columbia							
Federal Payment							
District Budget							
Independent Offices							
Interior (HR 5279)	835	$1,028,509,000	$ 935,690,200	$ 928,625,200	$985,093,400	$985,693,400	
Labor-HEW (HR 5888)	686	5,759,489,000	5,449,988,000	5,449,981,000			
Legislative							
Public Works - AEC							
State-Justice-Commerce-Judiciary							
Treasury-Post Office, Exec. Offices (HR 5366)	926	6,146,842,000	5,997,026,000	5,997,026,000	6,074,216,250	6,069,466,250	3,925,000,000
Foreign Aid							
Regular							
Peace Corps							
Other							
Military Construction							
Supplemental, 1963 (HR 5517)	751	1,652,300,456	988,756,506	1,438,691,506	1,486,096,841	1,488,683,841	1,467,430,491
Commodity Credit Corp., 1963 (H J Res 284)	291	508,172,000	508,172,000	508,172,000	508,172,000	508,172,000	508,172,000

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CONGRESSIONAL DISTRICTING ISSUE TO CONFRONT HIGH COURT

Within the next year the U.S. Supreme Court is expected to rule on one of the thorniest questions ever brought before it: May Congressional districts be challenged under the 14th Amendment in the same way that state legislative districts have been open to challenge since the Court's historic 1962 decision in Baker v. Carr, the Tennessee legislative apportionment case?

If the Court were to decide that inequality in Congressional district populations deprives citizens of their 14th Amendment guarantees of equal protection of the laws, the Congressional apportionments of more than half the states of the Union could easily come into question. Many of the nation's top Congressional leaders could find their districts radically altered. The membership of the House of Representatives might change rapidly as a result of such decisions. Supreme Court decisions leading in this direction might plunge the Court into a bitter clash with the House of Representatives. One of the classic power struggles between the branches of the Federal Government could ensue.

Reviewed on page 6 are the two Congressional district cases currently on appeal to the Supreme Court -- Wesberry v. Sanders, a Georgia case, and Wright v. Rockefeller, a New York case. Both of these cases were filed after the Supreme Court decision in Baker v. Carr. Both were dismissed by U.S. District Courts and then appealed to the Supreme Court.

Also awaiting hearing and decision by the Supreme Court in its term starting next October are a number of cases relating to state legislative apportionment. The picture regarding Congressional districts is clouded because the Court still has not set out any type of standards for the lower courts to use in deciding what constitutes "invidious discrimination" in state legislative apportionment. Baker v. Carr established only the principal that citizens might bring suits in the federal courts if they felt that state legislative apportionment was depriving them of their equal rights under the 14th Amendment. It is still unknown whether the Court will insist on strict population-based apportionment or permit factors of geography, economics or other special interest to be taken into account as well. Or if population is the only standard, no one knows how much variation the Court will consider constitutional. The answers to those questions in state legislative apportionment will give clues to possible directions of the Court's thinking on Congressional districts. But even if the state cases are decided first, major questions will remain on the Congressional district level.

Historical Background

The Constitution provides that "Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state" (14th Amendment modification of Art. I, Sec. 3), that population censuses shall take place very 10 years (Art. I, Sec. 3) and that "the times, places and manner of holding elections for Senators and Representatives shall be prescribed in each state by the legislature thereof; but the Congress may at any time by law make or alter such regulations" (Art. I, Sec. 4) with "each house...the judge of the elections, returns and qualifications of its own Members." (Art. I, Sec. 5).

Although the Constitution did not require that the states choose their Representatives by single member districts, researchers believe the Founding Fathers intended it and the practice has usually been followed in U.S. history. The first Congressional requirement of individual districts was incorporated in an 1842 law, prompted by seven states' decisions to elect their Congressmen at large. But in 1843, after four states still refused to establish districts, the House decided to seat the disputed delegations. The requirement of separate districts was dropped from the statute books in 1852 but reinstated in 1862. In 1872, a requirement was added that districts be as equal in population as practicable; in 1901, a requirement of compactness was added. The 1911 Reapportionment Act provided that Representatives "be elected by districts composed of a contiguous and compact territory containing as nearly as practicable an equal number of inhabitants." But gross malapportionment and gerrymandering continued in many states. In 1901 and again in 1910 the House discussed but declined to take action to prevent seating of Members from districts which clearly violated the standards on the statute books. Among the reasons given for inaction were assertions that voters in the affected districts would be left without any representation for two years, that the enforcement of the equality requirement would rest in the hands of the transitory House majority, that Members would be prey to constant uncertainty, not knowing when their seats might become pawns in some power struggle in the House, and that to enforce equality 'spasmodically' by occasional challenges to seating would be unfair and ineffective.

Congressional reapportionments have generally followed the decennial censuses. Congress, however, took no action to reapportion on the basis of the 1920 Census. By the end of the following decade malapportionment was at an exceptionally high level and Congressional leaders saw the need of enacting an automatic reapportionment act that would avert reapportionment delays in the future. The Reapportionment Act of 1929 did set up regular reapportionment machinery -- which has been used every decade since -- but in order to win passage of the bill, the 1911 Act's sections requiring separate, compact and contiguous districts of equal population were not included in the 1929 Act bill as finally approved. However, they were not specifically repealed.

1932 Cases

In 1932 the Supreme Court decided several important cases on Congressional redistricting. In each, petitioners claimed the state legislatures had not complied with the 1911 Act's requirements that districts be separate, compact, contiguous and equally populated. The question was whether those requirements, not repealed in the 1929 Act, were still in effect. In Smiley v. Holm, a Minnesota

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case, the petitioner also attacked the redistricting statute passed by the Legislature on the ground that the Governor's veto should apply to districting legislation and that the statute had not been repassed over his veto. The Supreme Court chose to ignore the question of the 1911 Act and ruled merely on the issue of the gubernatorial veto, stating that the federal Constitution did not exempt districting statutes from a Governor's veto. Two other 1932 Congressional districting cases -- Koenig v. Flynn, from the New York Court of Appeals, and Carroll v. Becker, from the Missouri Supreme Court, were decided by the Supreme Court on similar questions regarding gubernatorial vetoes.

The question of the 1911 Act's applicability was reached, however, in Wood v. Broom, a 1932 case challenging the constitutionality of a new Mississippi redistricting law. Speaking for the Court, Justices Hughes ruled that the 1911 Act had, in effect, expired with the approval of the 1929 Apportionment Act and that the standards of the 1911 Act were therefore no longer applicable. The Court reversed the decision of a lower federal court which had permanently enjoined elections under the new Mississippi redistricting act because it violated the standards of the 1911 Act. Later the same year the Court made a similar ruling in Mahan v. Hume, a Kentucky Congressional districting case.

Four members of the Supreme Court -- Justices Brandeis, Stone, Roberts and Cardoza -- also said in the Wood case that they would have dismissed the suit for "want of equity." The "want of equity" phrase in this context suggests a policy of judicial self-limitation related to the entire question of judicial involvement in essentially "political" issues.

Colgrove v. Green--1946

Not until 1946, in Colgrove v. Green, did the Supreme Court again rule in a significant case dealing with Congressional redistricting. The Colegrove case was brought by a political science professor at Northwestern University who alleged that Illinois' Congressional districts -- varying between 112,116 and 914,053 in population -- were so unequal that they violated 14th Amendment guarantees of equal protection of the laws. A seven-man Supreme Court dismissed the suit, 4-3, but the opinions were split 3-3-1.

Justice Frankfurter gave the plurality opinion of the Court, speaking for himself and Justices Reed and Burton. Frankfurter's opinion cited Wood v. Broom to indicate that Congress had deliberately removed the standards in the 1911 Act. "We also agree," he said, "with the four Justices (Brandeis, Stone, Roberts and Cardoza) who were of the opinion that the bill in Wood v. Broom should be 'dismissed for want of equity.'" The issue, Frankfurther said, was "of a peculiarly political nature and therefore not meet for judicial interpretation.... The short of it is that the Constitution has conferred upon Congress exclusive authority to secure fair representation by the states in the popular House and has left to that House determination whether states have fulfilled their responsibility. If Congress failed in exercising its powers, whereby standards of fairness are offended, the remedy lies ultimately with the people.... To sustain this action would cut very deep into the very being of Congress. Courts ought not to enter this political thicket. The remedy for unfairness in districting is to secure state legislatures that will apportion properly, or to invoke the ample powers of Congress." In addition, Frankfurter said that the Court could not affirmatively re-map Congressional districts and that elections-at-large would be politically undesirable.

Justice Black, dissenting in an opinion joined by Justices Douglas and Murphy, opined that the District Court had jurisdiction under a section of the U.S. Code giving district courts the right to redress deprivations of constitutional rights occurring through action of the states. Black's opinion also rested on a previous case in which the Court had indicated that federal constitutional questions, unless "frivolous," fall under jurisdiction of the federal courts. Black found that the appellants had standing to sue, that the population disparities did violate the equal protection clause of the 14th Amendment, and that relief should be granted. Black specifically rejected the view that Smiley v. Holm had set a precedent of non-justiciability. Smiley v. Holm, Black said, merely decided that the 1911 Act was no longer applicable. Only a minority of the Court, he said, had thought the case should be dismissed for "want of equity."

With the Court split 3-3 on whether the Judiciary had and should exercise jurisdiction in Colegrove v. Green, the deciding opinion was made by the seventh participant, Justice Rutledge. On the question of justiciability, Rutledge agreed with Black, Douglas and Murphy that the issue could be considered by the federal courts. "But for the ruling in Smiley v. Holm," Rutledge said, he would have thought that the Constitution specifically reserved the regulation of Congressional elections to the states and Congress. But Rutledge found that Smiley "rules squarely to the contrary." Thus a majority of the Court participating in the Colegrove case felt that Congressional redistricting cases were justiciable. (The 1962 Supreme Court later relied heavily on this point in its opinion in Baker v. Carr.)

On the question of granting relief in the specific case, however, Rutledge agreed with Frankfurter, Reed and Burton that the case should be dismissed. He pointed out that four of the nine justices in Wood v. Broom had felt that dismissal should be for want of equity. Rutledge saw a "want of equity" situation in Colegrove as well. "I think the gravity of the constitutional questions raised so great, together with the possibility of collision (with the political departments of the Government), that the admonition (against avoidable constitutional decision) is appropriate to be followed here," Rutledge said. Jurisdiction, he thought, should be exercised "only in the most compelling circumstances." He thought that "the shortness of time remaining (before the forthcoming election) makes it doubtful whether action could, or would, be taken in time to secure for petitioners the effective relief they seek." Rutledge warned that Congressional elections at large would deprive citizens of representation by districts "which the prevailing policy of Congress demands." In the case of at-large elections, he warned, "the cure sought may be worse than the disease." For all these reasons he concluded that the case was "one in which the Court may properly, and should, decline to exercise its jurisdiction."

Baker v. Carr--1962

Although it centered on the question of state legislature apportionment, the 1962 decision of the Supreme Court in Baker v. Carr raised the question of justiciability of Congressional districting cases. It was the

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first Supreme Court decision since Colegrove to touch directly on this subject. (For full review of Baker v. Carr, see 1962 Almanac p. 1054.)

In his majority opinion, concurred in by Chief Justice Warren and Justices Black, Clark, Douglas and Stewart, Justice Brennan ruled that Colegrove, and other cases dealing with state districting action, established the right of petitioners -- in this case, Tennessee urban residents denied fair representation in their state legislature -- to appeal to the federal courts for relief under 14th Amendment guarantees of equal protection of the laws. Salient points of the majority opinion:

Jurisdiction: On the question of jurisdiction (whether the case properly "arises under" the Federal Constitution, laws or treaties), Brennan said "an unbroken line of precedents sustains the federal courts' jurisdiction of the subject matter." The cases cited all related to Congressional redistricting -- Ohio ex. rel. Davis v. Hildebrant, a 1916 decision affirming, on the merits, an Ohio Supreme Court decision upholding the right of citizens to subject the state's Congressional districting law to a referendum against a claim that such a referendum usurped Congress' right to regulate elections; Smiley v. Holm; Wood v. Broom; Mahan v. Hume; Colegrove v. Green. In regard to Colegrove, Brennan said that "two of the opinions expressing the views of four of the justices, a majority, flatly held that there was jurisdiction of the subject matter."

Justiciability: Even if a case is one over which the courts have jurisdiction, they might consider a case "nonjusticiable" because it deals with primarily "political" questions that it would not be appropriate for the courts to decide. Brennan, however, found that neither state legislative or Congressional districting cases are nonjusticiable. "The mere fact that the suit seeks protection of a political right does not mean that it is a political question," he said. "The nonjusticiability of a political question is primarily a function of the separation of powers.... Deciding whether a matter has in any measure been committed by the Constitution to another branch of government...is itself a delicate exercise in constitutional interpretation, and is a responsibility of this Court as the ultimate interpreter of the Constitution."

In the matter of state legislative apportionment, Brennan said there was clearly no "political question" throwing a cloud on justiciability. "The question here," he said, "is the consistency of state action with the Federal Constitution. We have no question decided, or to be decided, by a political branch of the government coequal with this Court.... Nor need the appellants, in order to succeed in this action, ask the Court to enter upon policy determinations for which judicially manageable standards are lacking. Judicial standards under the Equal Protection Clause are well developed and familiar, and it has been open to courts since the enactment of the 14th Amendment to determine, if on the particular facts they must, that a discrimination reflects no policy, but simply arbitrary and capricious action." (One of the chief problems of lower courts since Baker v. Carr has been to determine how to apply the "well developed and familiar...judicial standards under the Equal Protection Clause." The definition of "arbitrary and capricious" in the opinions of the various lower courts has varied widely, so that many cases have been sent to the Supreme Court on appeal.)

Brennan also stated that "Smiley, Koenig and Carroll (see page 938) settled the issue in favor of justiciability of questions of Congressional redistricting." This statement would appear to nullify the chance that the Court would sidestep decision on Congressional districting cases merely because they deal with the Congress, a "coequal" branch of the Government.

But Brennan immediately proceeds into a detailed consideration of Colegrove v. Green, especially Rutledge's opinion. The entire Brennan opinion indicates a desire to preserve Colegrove as a valid precedent in the field. And in a footnote Brennan says: "No constitutional questions, including the question of whether voters have a judicially enforceable constitutional right to vote at elections of Congressmen from districts of equal population, were decided in Colegrove." Brennan then quotes Rutledge's reasons for finding "want of equity" -- that "the gravity of the constitutional question is so great, together with the possibility of collision" with the political departments of the Government, that "the admonition (against avoidable constitutional decision) is appropriate to be followed here."

Thus a possibility exists, if the Court maintains the line of reasoning expressed in Brennan's majority opinion in Baker v. Carr, that the Court would find the issue of Congressional districting one in which it has jurisdiction and one that is justiciable, but that the Court would nevertheless refrain from exercising its jurisdiction as Rutledge chose to do in Colegrove, basing its decision on grounds akin to the want of equity which Rutledge detected.

Grounds for Judicial Reticence

Three principle grounds might be used by the Supreme Court if it were to refrain from adjudicating Congressional district cases for grounds related to "want of equity":

1. Standards. How much population inequality, or how much gerrymandering, is permissable before citizens are entitled to relief under the 14th Amendment? Or in other words, what type of districting amounts to "arbitrary and capricious" state action? Will a mathematical formula of permissable district population deviations -- possibly a limit of two to one, as suggested in a 1962 Michigan Supreme Court decision -- or 15 or 20 percent, as recommended by many political scientists -- be adopted? What then of special geographical considerations creating districts of especially low populations, such as a district embracing the Eastern Shore of Maryland or one incorporating the Upper Peninsula of Michigan? Or may districting recognize diversified interests other than population? In staying a Michigan Supreme Court ruling ordering statewide elections of the state Senate because of inequitable districting, Supreme Court Justice Potter Stewart July 27, 1962 suggested that a state might well wish to give a small mining economy, its farming interests, its traditional communities or other socioeconomic interests special recognition in legislative districts. One problem facing the Court will be that existing disparities in Congressional district populations rarely approach the most criticized ones on the state legislative level. The grossest disparity in Tennessee was 19 to 1; the grossest disparity in Congressional districts is currently less than 5 to 1 and will probably be close to 3 to 1 following anticipated 1963 redistricting in Michigan and Texas. No current Congressional districting laws involve disparities as great as those in dispute in Colegrove v. Green. (For a discussion of malapportionment and "gerrymandering," see p. 912.)

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2. Enforcement. What penalties will the Court choose to impose on a state which refuses to redistrict despite a Court declaration that its districts are unconstitutional? Unlike the Executive and Legislative Branches, the Court has no physical means of imposing its will. It depends on public respect for the rule of law to see that its decisions are carried out. By the injunctive process the Court may prevent the holding of elections within malapportioned districts, but scarcely anyone believes the Courts will actually begin to draw new district lines themselves. (A federal court in Alabama actually drew new state legislative lines in 1962, but it used lines which the Legislature itself had adopted as alternative plans.)

The ultimate weapon of the courts in forcing redistricting may be to order elections at large until a state complies. An at-large election, however, may result in election of representatives only from the most populated areas of the state or from the majority party, truly depriving minority parties and geographic areas of a voice in government and raising serious new questions of deprivation of equal protection of the laws. As Rutledge warned in Colegrove, "the cure sought may be worse than the disease." Justice Stewart expressed a similar view in 1962 in granting a stay in the Michigan Senate apportionment case.

3. Collision with Congress. A Supreme Court decision to judge Congressional districts could thrust the Judiciary into a full-scale conflict with Congress. If Court decisions disturbed many districts, a strong reaction could be expected from Capitol Hill. The reaction could take the form of Congress reestablishing standards for Congressional districting and setting up its own machinery to obtain enforcement -- as the Constitution authorizes it to do -- a reaction the Court would probably welcome. But it could also take the form of retribution in new laws limiting the Judiciary or trimming appropriations for the courts. The Justices do read the newspapers, and they could hardly ignore the danger of such a reaction.

Examples of the impact of judicially-imposed standards:

A Supreme Court decision establishing 2 to 1 as the greatest permissable variance in a state's Congressional districts would bring into question districts in 14 states: Arizona, Colorado, Florida, Georgia, Indiana, Maryland, Michigan, Mississippi, New Jersey, Ohio, Oklahoma, South Dakota, Tennessee and Texas. These states have a total of 151 Representatives.

And should the Court, for example, establish a 20 percent variation from the average district as the greatest permissable variation, the current districting in 28 states with a total of 306 Representatives would be affected:

State	Maximum Variation	State	Maximum Variation
Ariz.	- 54.3	Mich.	+ 84.8
Ark.	+ 28.8	Miss.	+ 39.7
Calif.	+ 42.4	N.J.	+ 44.8
Colo.	- 55.4	N.C.	- 32.9
Conn.	+ 36.0	Ohio	+ 72.1
Fla.	+ 60.3	Okla.	+ 42.5
Ga.	+108.9	Ore.	- 40.0
Idaho	+ 22.9	Pa.	+ 31.9
Ill.	- 33.6	S.D.	- 46.3
Ind.	+ 64.6	Tenn.	+ 58.2
Kan.	+ 23.9	Texas	+118.5
Ky.	+ 40.8	Utah	+ 28.6
La.	- 35.2	Va.	+ 36.0
Md.	+ 60.5	Wash.	+ 25.2

If the Supreme Court were also to judge whether gerrymandering is involved in Congressional districts -- apart from the problem of mathematical malapportionment -- far more difficult problems would arise and most state's Congressional districting laws would probably be subject to protracted court challenges.

Outlook

Few Court observers are willing to make flat predictions of how the Court may decide on the Congressional districting cases now pending before it (see box). The line of reasoning in Baker v. Carr surely leads in the direction of direct judicial involvement in Congressional districting. But the difficulties of standards and enforcement and the danger of direct conflict with Congress are formidable. The Court might choose to leave the question of Congressional redistricting, at least temporarily, to the state legislatures which themselves are becoming more and more "representative" through the effects of Baker v. Carr and thus might be expected to be more friendly to equitable Congressional districting. Also, as pointed out by the Justice Department in its amicus curiae brief in Baker v. Carr, the decennial Census apportionments cause frequent changes in state Congressional districting laws, thus avoiding the situation in state legislature apportionment where there is no spur to periodic redistricting action and therefore a steady increase in inequalities.

Were the Supreme Court first to hear arguments and announce opinions in the state legislature cases pending before it -- cases from Maryland, Virignia, Oklahoma, Florida, New York and Michigan* -- direct clues to an opinion on Congressional districts might appear. There is a strong possibility, however, that the Court might hear the Congressional cases concurrently with those dealing with state legislative districts and announce opinions on the two types of cases simultaneously. The Court is expected to begin hearing arguments on the apportionment cases soon after it reconvenes for its fall term in October 1963.

Since the decision in Baker v. Carr, Justice Frankfurter (who wrote a strong dissent in that case) and Justice Whittaker (who did not participate) have retired. They have been replaced by Justices Goldberg and White. Goldberg is considered a likely backer of judicial standards in the field of legislative apportionment. Some observers believe White may take a more middle-of-the-road stand, though he recently refused to grant a stay in the Oklahoma apportionment case. (Weekly Report p. 429)

Justice Stewart, who wrote a separate concurring opinion in Baker v. Carr, indicated in his stay of the Michigan case that he had serious reservations about court imposition of pure population standards for districting. Justice Clark, in his concurring opinion in Baker, said "I would not consider intervention by this Court into so delicate a field if there were any other relief (such as referendum or initiative) available to the people of Tennessee." Justice Harlan has consistently opposed judicial intervention in districting matters. Thus there is a good chance that Stewart, Clark and Harlan would oppose judicial imposition of stiff standards on Congressional districting. The question would be whether

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The Michigan case may have become moot through adoption of the New Michigan Constitution. See Weekly Report p. 531.

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two or more of the remaining Justices would join them. Justices Black, Douglas and probably Goldberg would be the least likely to do so. The "swing vote" might be cast by the group consisting of Chief Justice Warren and Justice Brennan and White.

House Districting Cases

CURRENTLY ON APPEAL TO U.S. SUPREME COURT

Georgia -- Wesberry v. Sanders. Dismissed June 20, 1962 by a three-judge federal court in Atlanta, Ga.

Two plaintiffs had asked the court either to force redrawing of the boundaries of Georgia's 10 Congressional districts before the Sept. 12 Democratic primary or else require all 10 Congressmen to be elected at large in the whole state. The plaintiffs, both residents of Atlanta, claimed that the composition of the current districts, which range in population from 823,680 in the 5th District (Atlanta) to 272,154 in the rural 9th District (Northeast), deprived them of the "equal protection" of the law under the 14th Amendment to the U.S. Constitution. They urged the court to require new Congressional districts no more than 15 percent above or below the average district for the state, which is 394,312.

The court's majority opinion dismissing the case, written by Federal Circuit Judge Griffin B. Bell and concurred in by Federal District Judge Lewis R. Morgan, gave four major considerations for the court's decision: (1) that the case presented "a political question involving a coordinate branch of the Federal Government;" (2) the case involved a "political question posing a delicate problem difficult of solution without depriving others of the right to vote by district, unless we are to redistrict for the state;" (3) "relief may be forthcoming" from the State Legislature after it has been reapportioned (4) "relief may be afforded by the U.S. Congress."

The majority opinion emphasized that the Supreme Court in the Baker vs. Carr case "was at pains to distinguish" that case from the 1946 decision in Colegrove vs. Green, when the Court refused to rule on the composition of Illinois Congressional districts. The majority opinion went on to say that "the rationale of the (Baker vs. Carr) decision goes no further than to open to doors of the courts for the purpose of adjudicating consistency of state action with the Federal Constitution where no question is concerned involving a coequal political branch of government."

In an opinion concurring in part and dissenting in part, Federal Circuit Judge Elbert P. Tuttle said he agreed "that this Court should deny the injunction at this time" but disagreed "with the conclusion that the injunction should be dismissed." He said the Court "should retain jurisdiction of the cause in order to give the State Legislature an opportunity to remedy what this court has unanimously found to consitute a gross inequity."

Judge Tuttle said that "the point of difference between my views and those of my colleagues is that I am not convinced that if the Georgia Legislature persists in the future in maintaining Congressional districts as grossly disproportionate as they are today, the federal courts would have no power to take cognizance of such a situation and declare the state apportionment laws unconstitutional."

New York -- Wright vs. Rockefeller. Dismissed Nov. 26, 1962 by a three-judge federal court in New York City.

The plaintiffs, New York City Negro and Puerto Rican residents, asked to have the part of the 1961 New York redistricting law establishing the four Manhattan districts declared invalid under the 14th Amendment because, they alleged, it established "irrational, discriminatory and unequal Congressional districts (which) segregate eligible voters by race and place of origin." The plaintiffs alleged that the Republican 17th District (East Side) was "contrived" to exclude "non-white citizens and citizens of Puerto Rican origin" and that the Democratic 18th, 19th and 20th Districts "have been drawn so as to include the overwhelming number" of Negro and Puerto Rican citizens. As relief they asked the court to order an at-large election of Manhattan's four seats or appoint a special master to redefine the boundaries.

The plaintiffs received a jolt when Rep. Adam C. Powell (D 18th District) and five other Harlem Democratic leaders intervened in behalf of Gov. Nelson A. Rockefeller (R) and the other state officials who were listed as defendants. The Powell group charged that the Republican-controlled Legislature drew the new district lines "along partisan political lines rather than racial lines" to "cut out as many Democrats as they possibly could" and that the judgment sought by the plaintiffs would place in jeopardy the current Negro-Puerto Rican representation in Congress by causing a county-wide election in which the chances of a Negro or Puerto Rican candidate would be substantially less.

Circuit Court Judge Leonard P. Moore wrote the majority opinion in which he was joined by District Judge Wilfred Feinberg. They decided the case entirely on its merits, not questioning justiciability or the question of a possible want of equity. Moore said that "no proof was offered by any party that the specific boundaries were drawn on racial lines." He said that plaintiffs, "to inject a racial angle," had cited Gomillion v. Lightfoot, a 1960 case in which the Supreme Court ruled unconstitutional the action of the state of Alabama in altering the boundaries of the city of Tuskegee in such a manner as to exclude and thus disenfranchise in city elections all but a few of the city's 5,400 Negroes. Moore said the Gomillion case had "no application whatsoever" in the New York districting dispute. Moore said that the New York districts were reasonably equal in population and that "no citizen of Manhattan...has been deprived of his right to vote for the duly nominated candidates of the party of his choice and in the area in which he resides.... To create districts based upon equal proportions of the various races inhabiting metropolitan areas would indeed be to indulge in practices verging on the unconstitutional," Moore concluded.

District Judge Thomas F. Murphy dissented, saying that despite "a total absence of any direct proof" that the districts has been drawn along racial lines, the 1960 Census figures showing white, non-white and Puerto Rican population in the area proved a prima facie case of "a legislative intent to draw Congressional district lines in the 17th and 18th Districts on the basis of race and national origin," thereby violating the "equal protection" clause of the 14th Amendment to the Constitution.

CONGRESSIONAL CASES NOT APPEALED

Wisconsin -- State of Wisconsin v. Zimmerman. A three judge federal court in Milwaukee Aug. 14, 1962 dismissed without prejudice a case asking the Court to order immediate reapportionment of the state's Congressional

(Continued on p. 945)

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REAPPORTIONMENT ACTION TAKEN IN 22 STATES IN 14 MONTHS

This survey updates Congressional Quarterly's March 1963 survey on the extent of legislative apportionment in the 50 states since the U.S. Supreme Court's March 26, 1962 decision in Baker v. Carr, the Tennessee reapportionment case. (Weekly Report p. 424)

As of June 4, the totals on action since the March 1962 decision were:

Court cases filed in 37 states. (Cases filed before federal courts in 26 states, before state courts in 18 states, before both federal and state courts in 7 states).

Court actions -- preliminary or final -- in 28 states. In 23 states courts found apportionment of one or both bodies of the legislature unconstitutional, or intimated they would make such a finding if reapportionment action were not taken in the near future: Alabama, Colorado, Delaware, Florida, Georgia, Indiana, Iowa, Kansas*, Maryland†, Massachusetts†, Michigan*, Mississippi, Nebraska, North Dakota†, Oklahoma, Pennsylvania, Rhode Island, Tennessee, Vermont*, Virginia, Washington, Wisconsin, Wyoming.

Reapportionment plans or state constitutional amendments -- all reducing malapportionment to some extent -- passed in 22 states: Alabama, Colorado, Delaware (declared unacceptable by federal court), Florida, Georgia*, Idaho†, Indiana (subject to approval by another Legislature session and referendum), Iowa (subject to referendum), Kansas*, Kentucky, Maryland†, Michigan, Mississippi, Nebraska, North Dakota†, Oklahoma (declared unacceptable by federal court), Tennessee, Utah, Vermont*, Virginia, West Virginia, Wyoming. (Both the Maryland and Vermont plans were temporary measures applying to the 1962 elections only. The courts are expected to step in if further action is not taken before the 1964 elections.)

Reapportionment action before the 1964 elections anticipated in at least 6 additional states -- Illinois, North Carolina*, Oklahoma, Pennsylvania†, Rhode Island, Washington.

States in which court or legislative action has been taken since CQ's March round-up:

DELAWARE -- A federal court in Wilmington April 17, 1963 ruled that a reapportionment amendment to the state constitution approved by the Legislature in 1962 and again in 1963 was unconstitutional because the make-up of the Senate would not be based "substantially" on population. The court gave the General Assembly until Oct. 1 to come up with a new plan. Two members of the three-judge panel said the House of Delegates must be selected strictly on population and the Senate substantially so. A third member of the panel, District Court Judge Caleb R. Layton, wrote a partial dissent in which he said the court should not have ruled that the Senate as well as the House needed reapportioning. The state planned to ask the U.S. Supreme Court to extend the Oct. 1 deadline.

*Senate only †House only

IDAHO -- The 1963 session of the Idaho Legislature approved and Gov. Robert E. Smylie (R) signed into law a measure redistricting the House of Representatives. The measure guarantees each county one seat plus additional seats for each additional 10,000 population over 5,000. The reapportionment plan considered "temporary" by most Idaho observers, was passed in response to a plea by Gov. Smylie to reduce malapportionment in some degree and thus demonstrate good intentions to the courts. But plaintiffs in a pending suit in the U.S. District Court said they would press their suit for early judicial intervention.

ILLINOIS -- The Legislature has been deadlocked over new House and Senate reapportionment plans which, under a 1954 amendment to the state constitution, must be done on a strict population base for the House and with land area as a "prime consideration" in allocation of Senate seats. Democrats have been fighting to prevent a transfer of House seats from Democratic-controlled Chicago into the suburban areas of Cook County which are entitled to them on the basis of population. Chicago Mayor Richard Daley is pushing a plan to extend Democratic Chicago House districts out into the suburbs far enough to make them equitable in population but not enough to make them Republican. Democrats are asking that provisions of the 1954 constitutional amendment which required that Chicago, the suburbs and downstate be considered as separate blocs of districts be disregarded. They have also challenged the constitutionality of the Senate apportionment formula and demand reapportionment by population with no regard for the formula. Republicans in control of the Legislature have been plagued by splits on redistricting. Under the constitution, Legislature failure to reapportion by July 1 would transfer the responsibility for drawing new district lines to a special commission of five Democrats and five Republicans nominated by their state chairmen and appointed by the Governor, Otto Kerner (D).

Earlier in the winter a suit challenging the constitutionality of the Senate apportionment was filed in U.S. District Court in Chicago by Joseph Germano, Chicago district director of the United Steel Workers of America. The suit is pending.

INDIANA -- The Legislature April 2 refused to override Democratic Gov. Matthew E. Welsh's veto of a Republican-sponsored House reapportionment bill which increased urban representation but still left rural areas overrepresented. Efforts to achieve approval of other compromise plans failed and the Legislature April 21 finally agreed on a reapportionment amendment to the state constitution which must also be approved by the 1965 Legislature and by the voters in a referendum. The amendment provides that the first reapportionment under it be based on the 1970 Census, so that the first reapportioned Legislature would not meet until 1973. The amendment calls for House apportionment on a population basis and Senate apportionment on a combined

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population-land area formula. It also provides that if the Legislature fails to reapportion, reapportionment responsibility will be transferred to a commission made up of the Governor, secretary of state and attorney general.

Plaintiffs are pushing previously filed suits in U.S. District Court to force prompt reapportionment on a strict population basis.

IOWA -- A three-judge federal court in Des Moines May 3 ruled unconstitutional the current apportionment of both houses of the Legislature. The court found that existing disparities (running as high as 9 to 1) "transgress the constitutional limits of equal protection. While there is some justification for inequality," the court said, "there is no apparent rational basis for the very substantial inequality that exists in both houses." Two members of the court found, however, that judicial relief was not warranted pending the Dec. 3, 1963 referendum in which voters will pass on the so-called Shaff Plan, apportioning the Senate by population alone but guaranteeing each county a seat in the House. The two judges said they were specifically not judging the constitutionality of the Shaff plan, noting that "the vote of the people upon the clear issue presented by the Shaff Plan may ultimately be held to be of considerable significance in passing upon (its) rationality."

A third judge, however, said he found the Shaff Plan unconstitutional and said state officials should be enjoined from submitting it to a vote of the people.

KANSAS -- The Kansas Legislature in late April approved reapportionment of the state Senate for the first time in more than 30 years. The reapportionment gave 21 of the 40 Senate seats to four metropolitan areas -- Topeka, Kansas City, Wichita and Northeast Johnson County. Had the Legislature not acted, the Kansas Supreme Court might have ordered reapportionment in accordance with a suit pending before it. The court had granted a stay in the suit pending action by the 1963 Legislature.

KENTUCKY -- Though dissatisfied with the recent General Assembly reapportionment which increased Louisville's representation in both Senate and House but still left the city somewhat underrepresented, Louisville officials decided not to press the previously filed case pending in U.S. District Court. City officials said they would first put pressure on the reapportioned General Assembly, following its election this year, to complete the job of reapportionment.

MARYLAND -- The Judiciary Committee of the Maryland House March 25 killed a bill that would have effected permanent reapportionment of the House in place of the temporary reapportionment passed under court orders in 1962. The Committee referred the problem to a gubernatorial commission that is studying the problem and expected to make a report before the 1964 session. The current House apportionment effected important increases in metropolitan area representation, but not enough to place the House on a strict population basis. A new plan must be passed in 1964 since the current apportionment legislation was valid only for the 1962 elections.

Still pending before the U.S. Supreme Court is a bill challenging constitutionality of Maryland's Senate which is apportioned by geographic area rather than population.

MASSACHUSETTS -- State Superior Court Judge Henry H. Chmielinski March 27 ruled unconstitutional the state House apportionment which was last revised in 1947 on the basis of a 1945 state census that predated the postwar suburban population boom. The court opinion followed an advisory opinion by Attorney General Edward W. Brooke to the same effect. The General Court (legislature) moved to organize a joint reapportionment commission due to report a plan by early summer.

MICHIGAN -- A challenge to current Senate districts, currently pending before the U.S. Supreme Court, was presumably made moot by Michigan voters' April 1 approval of a new state constitution incorporating a revised apportionment formula. But Michigan AFL-CIO president August Scholle, plaintiff in the earlier suit, April 3 said he would file a new court suit challenging the new Senate apportionment formula, which is based 80 percent on population and 20 percent on land area. Meanwhile, calling of the special bipartisan reapportionment commission provided for in the new constitution has been delayed by an apparently fruitless Democratic recount challenge to the referendum vote which approved the new constitution.

NEBRASKA -- The 1963 Legislature session completed action on a new reapportionment plan giving 80 percent weight to population, 20 percent to land area in accordance with a constitutional amendment approved by the voters in the 1962 general election. The Nebraska League of Municipalities is expected to reactivate a previously filed suit in U.S. District Court demanding apportionment of the unicameral Legislature on a strict population basis.

NEW JERSEY -- The New Jersey Superior Court March 1 dismissed a suit challenging constitutionality of the state's Senate and House districts. The suit, filed by two labor leaders from urban counties, had challenged Senate apportionment (one senator for each county) on the basis that it "entirely ignores population differentials" and is therefore unconstitutional. Plaintiffs complained that 11 smaller counties with 19 percent of the state's population elect a majority of the Senate. The Court said that nothing in the 14th Amendment or Baker v. Carr denies that "a state may adopt a system of unequal representation so long as there is a rational basis for the inequality." The opinion said New Jersey's county system was a rational one which had evolved historically and logically based on the state's diversified economic, governmental and population groupings. Therefore, the court said, an apportionment based on the county system was not irrational or discriminatory. The court also dismissed the challenge to the state's 1961 House reapportionment law, stating that the method of equal proportions on which it was based had been approved by the New Jersey Supreme Court as the system "producing the smallest relative difference in the individual share of an assemblyman."

NORTH DAKOTA -- Acting under the threat of federal or state court action, the Legislature March 6 completed passage of a new House apportionment plan drastically reducing the current rural overrepresentation. The new House plan, based on a "major fractions" formula, comes fairly close to straight population criteria. It is being challenged in an amended suit in the U.S. District

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Court, however, because it still leaves the Grand Forks, Minot and Bismark areas somewhat underrepresented. The amended suit also asks the court to direct reapportionment of the heavily rural Senate which it left untouched in 1963 redistricting action.

OREGON -- The Oregon Senate May 28 killed a proposed new state constitution which contained a compromise apportionment section limiting population variations between districts but giving the Legislature the option of providing some more House members for smaller counties. The current constitution allows variances of up to 3 to 1 in district populations but the apportionment plan put into effect by court order in 1961 contains the least population disparity between districts of any in the country.

TENNESSEE -- In a last-ditch attempt to prevent actual federal court redistricting, the Tennessee Legislature March 22 approved another Senate-House apportionment plan. The new plan corrects some of the irregularities which the District Court had cited in its June 22, 1962 order invalidating a stop-gap apportionment plan enacted shortly after the 1962 Supreme Court decision in Baker v. Carr. Urban forces complain, however, that the latest revision still leaves the four metropolitan counties, with nearly half the state population, only 12 of the 33 Senate seats and 31 of the 99 House seats. They plan to press the case further in the District Court.

VIRGINIA -- Chief Justice Earl Warren Dec. 15, 1962 stayed a lower court order declaring the 1962 Virginia reapportionment plan unconstitutional and directing enactment of a new plan by January 1963. With the federal suit thus in suspension, at least until the Supreme Court term that starts in October 1963, urban spokesmen April 17 filed a suit in Richmond Circuit Court asking for an injunction to prevent holding of the 1963 primary and general Legislature elections. The state suit, like the stalled federal suit, cited alleged discrimination against urban and suburban areas.

WASHINGTON -- Observers now anticipate that Gov. Albert D. Rosellini (D) will wait until the spring of 1964 to call a special Legislature session to deal with reapportionment.

CONGRESSIONAL DISTRICTING

(Continued from p. 942)

and state Legislature districts. Circuit Court Judge F. Ryan Duffy, speaking for the court, did not question the justiciability of the matter, but concurred in the judgment of a special master appointed by the court that the "equities are not with the plaintiffs." Duffy also said that "as a practical matter" it was too late to alter the rules of the 1962 elections. The court ordered the suit be dismissed without prejudice to any similar suit after Aug. 1, 1963, if the Legislature had not reapportioned by that time.

The Legislature passed and the Governor May 20, 1963 signed into law a new Congressional redistricting bill with disparities of no more than 3.4 percent from the average district population figure. (Weekly Report p. 815)

Michigan -- Calkins v. Hare. A panel of three federal judges at Port Huron, Mich., July 10, 1962 refused to order the election of all 19 Michigan Congressmen at large. Two Dearborn teachers had asked the at-large elections pending Legislature redistricting to relieve gross malapportionment violating the 14th Amendment. The Court said: "This, under the circumstances, is a request for an extraordinary remedy and one which this court is unwilling to indulge upon such short notice and without full study, consideration and reflection." No further action was taken on the case.

Washington -- Thigpen v. Meyers. This was a taxpayers' suit, backed by the League of Women Voters, challenging both the Congressional and state legislative districts of Washington. A panel of three federal judges in Seattle Dec. 13, 1962 dismissed the part of the complaint relating to Congressional districts. The Court said that the question of Congressional districting was clearly justiciable, citing Baker v. Carr, but found that "the Constitution and existing laws of the United States do not require Congressional apportionment on the basis of population." The Court said that gross population discrepancies could amount to invidious discrimination in Congressional districts, but that Washington's districts (ranging between 342,540 and 510,512) were "not so invidiously discriminatory as to amount to a denial of equal protection."

Check your Congressional Quarterly Almanacs for additional details and background information on the news of Congress appearing in the Weekly Reports. Published since 1945, the CQ Almanac is fully indexed and cross referenced.

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PRESIDENTIAL STATEMENTS

Recent public statements by President Kennedy: (For previous statements, see Weekly Report p. 852):

May 10 -- Announcement of the intended appointment of retired Maj. Gen. Joseph H. McNinch to succeed Dr. William S. Middleton as Chief Medical Director of the Veterans Administration.

May 10 -- Announcement of the appointment of ex-Sen. Benjamin A. Smith as chairman of the United States delegation, with rank of Ambassador, to the Convention for North Pacific Fisheries.

May 10 -- Proclamation designating the week of May 26 through June 1, 1963 as National Highway Week.

May 10 -- Exchange of remarks between the President and Prime Minister Lester B. Pearson of Canada at Otis AFB, Mass.

May 11 -- Text of communique following meeting with Canadian Prime Minister Pearson, accepting Roosevelt cottage and grounds on Campobello Island for public meetings between Canada and the U.S.

May 11 -- Joint communique following meetings between the President and Canadian Prime Minister Lester B. Pearson at Hyannisport, Mass.

May 13 -- Remarks welcoming a group of foreign military officers visiting Washington before studying at Fort Leavenworth, Kansas.

May 13 -- Announcement of the nomination of Robert Campbell Strong as Ambassador to Iraq.

May 14 -- Announcement of intended appointment of E. William Henry to succeed Newton N. Minow as chairman of the Federal Communications Commission.

May 14 -- Texts of letters exchanged between the President and Newton N. Minow, concerning the latter's resignation as chairman of the Federal Communications Commission.

May 14 -- Announcement of the receipt of report and recommendations of Emergency Board No. 154, covering the dispute between railroads and brotherhoods representing railroad workers.

May 14 -- Announcement of the intended appointment of William H. Orrick, Jr., to succeed Lee Loevinger as Assistant Attorney General in charge of Antitrust Division of the Department of Justice.

May 16 -- Remarks greeting members of the National Advisory Council of the Small Business Administration.

May 16 -- Announcement of the appointment of Lewis H. Weinstein, Earl B. Schwulst, Roland M. Sawyer, Cyril Magnin, Ferdinand Kramer, Charles Keller, Jr., Theodore A. Jones and Jack T. Conway as public members of the President's Committee on Equal Opportunity in Housing.

May 16 -- Remarks to participants of the Amalgamated Meat Cutters and Butchers Workers of North America Conference.

May 16 -- Announcement of the intended appointment of William J. Crockett to succeed William H. Orrick, Jr. as Deputy Under Secretary of State for Administration.

May 16 -- Approval of the recommendation of Army Secretary Cyrus R. Vance to detail Col. Charles M. Duke, Corps of Engineers, as Engineer Commissioner of the District of Columbia.

May 16 -- Text of telephone conversation between President and Astronaut L. Gordon Cooper aboard the U.S.S. Kearsarge.

May 16 -- Remarks upon the successful completion of astronaut L. Gordon Cooper's mission into space.

May 17 -- Exchange of remarks between President and Italian Ambassador Sergio Fenoaltea at ceremonies greeting members of the Incontro Club.

May 20 -- Remarks welcoming leaders of twelve national conservation organizations honoring Sen. Clinton P. Anderson (D N.M.) as the leader of the American conservation movement.

May 20 -- Statement concerning the position of the Administration on legislation proposed to establish a procedure for U.S.-Puerto Rico relations.

May 21 -- Announcement of intended appointment of Adm. George W. Anderson Jr. to succeed C. Burke Elbright as United States Ambassador to Portugal.

May 21 -- Announcement of resignation of William Attwood as United States Ambassador to Guinea.

May 21 -- Requested the chairman of the Civil Service Commission to prepare regulations permitting voluntary withholding of employee organization dues for federal employees and approving Standards of Conduct and a Code of Fair Practices for employee-management relations, both recommended by his Committee on Employee-Management Relations in the Federal Service.

May 21 -- Text of message to Heads of State of African States meeting in Addis Ababa, wishing them success in their deliberations.

May 21 -- Remarks welcoming Maj. L. Gordon Cooper and other astronauts at award ceremonies.

CONSERVATIVE COALITION *(Continued from page 923)*

medical, dental and osteopathic students in the health education assistance bill (HR 12) (RC 14). In past years the coalition has frequently formed over questions of federal aid to education. However, the precise question of loans for students as opposed to no loans has never arisen previously. Some observers credited the Southern support for the loans and the bill to the fact that its floor manager was Rep. Oren Harris (D Ark.), who in 1962 voted with the conservative side of the House more often than not. Recommital motion rejected 171-239: R 138-33; D 33-206 (ND 2-142; SD 31-64). A "nay" was a vote supporting the President's position. (Weekly Report p. 651)

Other Key Votes

The coalition also did not appear on the following key votes during the first five months of the 1963 session. However, none were coalition issues in recent years.

Senate

Accelerated Public Works: A majority of Southern and Northern Democrats voted May 1 against reducing funds for accelerated public works projects below the level requested by the President in a supplemental appropriations bill (HR 5517) (RC 39). Reduction from $450 million to $250 million rejected 26-60: R 21-7; D 5-53 (ND 1-36; SD 4-15). (Weekly Report p. 681)

Feed Grains: A majority of Southern and Northern Democrats voted May 16 for passage of a bill (HR 4997) establishing a two-year feed grains acreage diversion program (RC 60). Passed 45-35: R 3-28; D 42-7 (ND 27-2; SD 15-5). (Weekly Report p. 750)

House

Accelerated Public Works: A majority of Southern and Northern Democrats voted April 10 in favor of adding the $450 million in accelerated public works funds requested by the President to a supplemental appropriations bill (HR 5517) (RC 12). Agreed to 228-184: R 20-151; D 208-33 (ND 139-3; SD 69-30). (Weekly Report p. 560)

Feed Grains: A majority of Southern and Northern Democrats voted April 25 against killing a bill (HR 4997) establishing a two-year feed grains acreage diversion program (RC 16). Recommital rejected 196-205: R 168-0; D 28-205 (ND 9-127; SD 19-78). (Weekly Report p. 684)

Debt Limit: A majority of Southern and Northern Democrats voted May 15 for passage of a bill (HR 6009) raising the temporary national debt limit (RC 28). Passed 213-204: R 1-172; D 212-32 (ND 143-3; SD 69-29). A "nay" was a vote supporting the President's position. (Weekly Report p. 749)

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Index to Latest CQ Coverage of Major Issues

(Dates listed in the Congressional Boxscore, inside front cover, also may be used as a guide in locating specific CQ committee and floor action stories on major legislation. For complete references to all topics, see the CQ Index, published quarterly.)

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CIVIL BENEFITS			
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Consumer Aids	392	392	566
Education	230	110	810
Fine Arts	169	---	568
Medical Care	189	243	568
Medical Schools	229	651	651
Mental Health	211	---	829
National Service Corps	---	632	934
Equal Pay	518	---	830
ECONOMIC POLICY			
Corporate, Excise Taxes	510	---	936
Debt Limit	543	248	834
FTC Cease & Desist	392	---	567
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Tax Reduction & Reform	478	13	936
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Immigration	349	422	---
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Legislation	1962 ALMANAC PAGE	1963 WEEKLY REPORT	
		Fact Sheet	Other
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CQ House Votes 32 through 33.

(Corresponding to Congressional Record Roll-Call Vote Nos. 61, 66.)

House Accepts Amendment Aimed at Blocking Urban Affairs Reorganization Plan, Refuses to Cut Off GOP Civil Rights Talk

32. HR 3496. Extend for two years, until June 1, 1965, the Reorganization Act of 1949. Brown (R Ohio) amendment to prohibit the President from creating a new executive department by reorganization plan. Agreed to 226-175: R 158-3; D 68-172 (ND 3-139; SD 65-33), June 4, 1963. A "nay" was a vote supporting the President's position. (See story p. 924)

33. Roosevelt (D Calif.) -- Williams (D Miss.) motion to adjourn the House. The purpose of the motion was to stop Reps. Lindsay (R N.Y.), MacGregor (R Minn.) and other Republicans from discussing civil rights legislation under previously approved special orders for House speeches. Rejected 53-276: R 6-143; D 47-133 (ND 1-103; SD 46-30), June 4, 1963. The President did not take a position on the motion. (See story p. 927)

	32	33
ALABAMA		
AL Andrews	Y	Y
AL Elliott	N	Y
AL Grant	Y	Y
AL Huddleston	Y	Y
AL Jones	?	?
AL Rains	?	?
AL Roberts	?	?
AL Selden	Y	Y
ALASKA		
AL Rivers	N	?
ARIZONA		
3 Senner	N	?
2 Udall	N	N
1 Rhodes	Y	N
ARKANSAS		
1 Gathings	Y	Y
4 Harris	Y	Y
2 Mills	Y	Y
3 Trimble	X	?
CALIFORNIA		
7 Cohelan	N	N
9 Edwards	N	N
18 Hagen	N	N
34 Hanna	N	?
2 Johnson	N	N
4 Leggett	N	?
15 McFall	N	N
8 Miller	N	N
3 Moss	N	N
5 Shelley	X	?
33 Sheppard	N	?
16 Sisk	N	?
37 Van Deerlin	N	N
14 Baldwin	Y	N
1 Clausen	?	?
10 Gubser	Y	N
6 Mailliard	Y	N
38 Martin	Y	N
12 Talcott	✓	?
13 Teague	Y	N
35 Utt	✓	?
36 Wilson	Y	N
11 Younger	Y	N

	32	33
Los Angeles Co.		
29 Brown	N	?
27 Burkhalter	N	N
25 Cameron	N	N
22 Corman	N	N
23 Vacancy		
21 Hawkins	N	N
19 Holifield	N	N
17 King	N	?
26 Roosevelt	N	?
30 Roybal	N	N
31 Wilson	N	N
28 Bell	Y	N
32 Hosmer	Y	N
24 Lipscomb	Y	N
20 Smith	Y	N
COLORADO		
4 Aspinall	N	?
1 Rogers	N	N
2 Brotzman	Y	N
3 Chenoweth	Y	N
CONNECTICUT		
1 Daddario	N	N
3 Giaimo	N	N
AL Grabowski	N	N
5 Monagan	N	N
2 St. Onge	N	N
4 Sibal	Y	N
DELAWARE		
AL McDowell	N	?
FLORIDA		
2 Bennett	N	N
4 Fascell	N	N
9 Fuqua	Y	Y
10 Gibbons	N	?
7 Haley	Y	Y
5 Herlong	Y	Y
8 Matthews	Y	N
3 Pepper	N	?
6 Rogers	Y	N
1 Sikes	Y	?
12 Cramer	Y	N
11 Gurney	Y	N

	32	33
GEORGIA		
7 Davis	Y	Y
4 Flynt	Y	Y
3 Forrester	?	?
1 Hagan	Y	Y
9 Landrum	Y	Y
2 Pilcher	Y	?
10 Stephens	Y	Y
8 Tuten	Y	Y
6 Vinson	N	?
5 Weltner	N	N
HAWAII		
AL Gill	N	N
AL Matsunaga	N	N
IDAHO		
2 Harding	N	N
1 White	Y	N
ILLINOIS		
21 Gray	X	N
24 Price	N	N
23 Shipley	N	?
16 Anderson	Y	N
17 Arends	Y	N
20 Findley	Y	N
14 Hoffman	Y	Y
12 McClory	Y	N
19 McLoskey	✓	?
18 Michel	Y	Y
15 Reid	Y	N
22 Springer	Y	N
Chicago—Cook Co.		
1 Dawson	N	?
9 Finnegan	N	N
5 Kluczynski	N	?
7 Libonati	N	N
3 Murphy	N	N
6 O'Brien	N	?
2 O'Hara	N	N
11 Pucinski	N	N
8 Rostenkowski	N	N
10 Collier	Y	N
4 Derwinski	Y	N
13 Rumsfeld	Y	N

- KEY -

Y Record Vote For (yea).
✓ Paired For.
‡ Announced For, CQ Poll For.
N Record Vote Against (nay).
X Paired Against.
– Announced Against, CQ Poll Against.
? Absent, General Pair, "Present," Did not announce or answer Poll.

	32	33
INDIANA		
3 Bradamas	N	N
8 Denton	N	?
1 Madden	N	N
5 Roush	N	N
4 Adair	Y	N
7 Bray	Y	N
11 Bruce	Y	N
2 Halleck	Y	N
10 Harvey	Y	N
6 Roudebush	Y	N
9 Wilson	Y	N
IOWA		
5 Smith	N	N
2 Bromwell	Y	N
3 Gross	Y	Y
6 Hoeven	Y	N
7 Jensen	Y	Y
4 Kyl	?	?
1 Schwengel	Y	N
KANSAS		
2 Avery	Y	N
1 Dole	Y	N
3 Ellsworth	Y	?
4 Shriver	Y	N
5 Skubitz	Y	N
KENTUCKY		
4 Chelf	N	Y
2 Natcher	Y	N
7 Perkins	N	N

Democrats in this type; *Republicans in italics*

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CQ House Votes 32 through 33.

(Corresponding to Congressional Record Roll-Call Vote Nos. 61, 66.)

	32	33
1 Stubblefield	N	N
6 Watts	N	Y
3 Siler	Y	N
5 Snyder	Y	N
LOUISIANA		
2 Boggs	N	?
1 Hebert	Y	?
8 Long	Y	Y
6 Morrison	N	?
5 Passman	Y	Y
7 Thompson	Y	?
4 Waggonner	Y	Y
3 Willis	Y	?
MAINE		
2 McIntire	Y	N
1 Tupper	Y	N
MARYLAND		
4 Fallon	N	?
7 Friedel	N	N
3 Garmatz	N	?
5 Lankford	N	N
2 Long	N	?
AL Sickles	N	N
6 Mathias	Y	N
1 Morton	?	?
MASSACHUSETTS		
2 Boland	N	N
11 Burke	N	N
4 Donohue	N	N
7 MacDonald	N	N
9 McCormack		
8 O'Neill	N	N
3 Philbin	N	N
6 Bates	√	?
1 Conte	N	N
12 Keith	Y	N
10 Martin	Y	?
5 Morse	Y	N
MICHIGAN		
7 O'Hara	N	N
AL Staebler	N	?
12 Bennett	Y	Y
18 Broomfield	Y	N
10 Cederberg	Y	N
6 Chamberlain	Y	N
5 Ford	Y	N
9 Griffin	Y	N
8 Harvey	Y	N
4 Hutchinson	Y	N
3 Johansen	Y	N
11 Knox	Y	N
2 Meader	Y	N
Detroit—Wayne Co.		
13 Diggs	N	?
15 Dingell	N	N
17 Griffiths	N	?
16 Lesinski	N	N
1 Nedzi	N	N
14 Ryan	N	N
MINNESOTA		
8 Blatnik	N	?
5 Fraser	N	N
4 Karth	N	N
6 Olson	N	N
7 Langen	Y	N
3 MacGregor	Y	N
2 Nelsen	Y	N
1 Quie	Y	N
MISSISSIPPI		
1 Abernethy	Y	Y
5 Colmer	Y	Y
2 Whitten	Y	?
3 Williams	Y	Y
4 Winstead	Y	Y
MISSOURI		
5 Bolling	N	N
9 Cannon	N	?
6 Hull	Y	N
8 Ichord	N	N
10 Jones	?	?
1 Karsten	N	N
4 Randall	N	N
3 Sullivan	N	N

	32	33
2 Curtis	Y	N
7 Hall	Y	N
MONTANA		
1 Olsen	N	N
2 Battin	?	?
NEBRASKA		
1 Beermann	Y	N
2 Cunningham	Y	N
3 Martin	Y	?
NEVADA		
AL Baring	√	?
NEW HAMPSHIRE		
2 Cleveland	Y	N
1 Wyman	Y	N
NEW JERSEY		
14 Daniels	N	N
13 Gallagher	N	N
8 Joelson	N	N
11 Minish	N	N
15 Patten	N	N
10 Rodino	N	N
4 Thompson	N	?
3 Auchincloss	Y	?
1 Cahill	Y	N
6 Dwyer	Y	N
5 Frelinghuysen	Y	N
2 Glenn	?	?
9 Osmers	Y	N
12 Wallhauser	Y	N
7 Widnall	Y	N
NEW MEXICO		
AL Montoya	N	N
AL Morris	N	N
NEW YORK		
41 Dulski	N	N
29 O'Brien	N	?
1 Pike	N	N
35 Stratton	N	N
25 Barry	Y	N
5 Becker	Y	N
3 Derounian	Y	N
38 Goodell	Y	N
2 Grover	Y	N
36 Horton	Y	N
31 Kilburn	Y	?
30 King	Y	N
40 Miller	Y	?
37 Ostertag	Y	N
39 Pillion	Y	N
32 Pirnie	Y	N
26 Reid	Y	N
34 Riehlman	Y	N
33 Robison	Y	N
27 St. George	?	?
28 Wharton	Y	N
4 Wydler	Y	N
New York City		
7 Addabbo	N	N
23 Buckley	X	?
15 Carey	N	N
10 Celler	N	?
9 Delaney	N	?
19 Farbstein	N	N
22 Gilbert	N	N
21 Healey	N	?
12 Kelly	N	N
11 Keogh	N	N
13 Multer	N	?
16 Murphy	N	N
18 Powell	X	?
14 Rooney	N	N
8 Rosenthal	N	N
20 Ryan	N	N
24 Fino	Y	N
6 Halpern	N	N
17 Lindsay	N	N
NORTH CAROLINA		
1 Bonner	N	Y
4 Cooley	Y	?
2 Fountain	Y	N
3 Henderson	Y	Y
6 Kornegay	Y	N
7 Lennon	Y	?

	32	33
5 Scott	?	?
11 Taylor	Y	Y
10 Whitener	Y	N
9 Broyhill	Y	N
8 Jonas	Y	N
NORTH DAKOTA		
1 Nygaard	Y	N
2 Short	Y	N
OHIO		
9 Ashley	N	N
20 Feighan	N	N
18 Hays	N	N
19 Kirwan	N	?
15 Secrest	N	Y
21 Vanik	N	?
10 Abele	Y	N
17 Ashbrook	Y	?
14 Ayres	Y	N
8 Betts	Y	N
22 Bolton, F. P.	Y	N
11 Bolton, O. P.	Y	N
16 Bow	Y	N
7 Brown	Y	N
2 Clancy	Y	N
12 Devine	Y	N
6 Harsha	Y	?
5 Latta	Y	?
4 McCulloch	Y	N
23 Minshall	Y	N
13 Mosher	√	N
1 Rich	Y	N
3 Schenck	Y	N
AL Taft	Y	N
OKLAHOMA		
3 Albert	N	N
2 Edmondson	N	N
5 Jarman	Y	N
4 Steed	N	?
6 Wickersham	N	N
1 Belcher	Y	N
OREGON		
4 Duncan	N	N
3 Green	N	N
2 Ullman	N	?
1 Norblad	Y	N
PENNSYLVANIA		
25 Clark	N	N
21 Dent	N	?
11 Flood	N	N
20 Holland	N	?
14 Moorhead	N	N
26 Morgan	N	N
6 Rhodes	N	N
15 Vacancy		
18 Corbett	Y	N
8 Curtin	Y	N
9 Dague	Y	N
27 Fulton	Y	N
23 Gavin	Y	?
19 Goodling	Y	N
16 Kunkel	Y	?
10 McDade	Y	N
7 Milliken	Y	N
22 Saylor	Y	N
17 Schneebeli	Y	N
13 Schweiker	Y	N
24 Weaver	Y	N
12 Whalley	Y	N
Philadelphia City		
1 Barrett	N	?
3 Byrne	N	N
5 Green	N	N
2 Nix	N	?
4 Toll	N	N
RHODE ISLAND		
2 Fogarty	X	N
1 St. Germain	X	?
SOUTH CAROLINA		
4 Ashmore	Y	Y
3 Dorn	Y	Y
5 Hemphill	N	Y
6 McMillan	Y	?

	32	33
1 Rivers	Y	Y
2 Watson	Y	Y
SOUTH DAKOTA		
2 Berry	Y	N
1 Reifel	Y	N
TENNESSEE		
6 Bass	N	N
9 Davis	N	?
8 Everett	Y	Y
4 Evins	N	?
5 Fulton	N	N
7 Murray	Y	N
2 Baker	Y	?
3 Brock	Y	N
1 Quillen	Y	N
TEXAS		
3 Beckworth	Y	Y
2 Brooks	N	N
17 Burleson	Y	Y
22 Casey	?	?
7 Dowdy	Y	Y
21 Fisher	Y	?
20 Gonzalez	N	N
15 Kilgore	Y	N
19 Mahon	Y	N
1 Patman	N	N
11 Poage	Y	Y
AL Pool	Y	Y
13 Purcell	Y	N
4 Roberts	Y	Y
18 Rogers	Y	?
6 Teague	Y	?
8 Thomas	N	?
9 Thompson	N	N
10 Thornberry	N	N
12 Wright	Y	N
14 Young	N	N
5 Alger	Y	N
16 Foreman	Y	N
UTAH		
1 Burton	√	?
2 Lloyd	Y	N
VERMONT		
AL Stafford	Y	N
VIRGINIA		
4 Abbitt	Y	Y
1 Downing	Y	Y
3 Gary	N	Y
2 Hardy	N	Y
9 Jennings	N	N
7 Marsh	Y	N
8 Smith	Y	?
5 Tuck	Y	Y
10 Broyhill	Y	Y
6 Poff	Y	N
WASHINGTON		
3 Hansen	N	?
5 Horan	Y	?
4 May	Y	N
1 Pelly	Y	N
7 Stinson	Y	N
6 Tollefson	?	?
2 Westland	?	?
WEST VIRGINIA		
4 Hechler	N	N
5 Kee	N	?
3 Slack	Y	?
2 Staggers	N	N
1 Moore	Y	N
WISCONSIN		
9 Johnson	N	N
2 Kastenmeier	N	N
5 Reuss	N	N
4 Zablocki	N	N
8 Byrnes	Y	N
7 Laird	Y	N
10 O'Konski	?	?
1 Schadeberg	Y	N
3 Thomson	?	?
6 Van Pelt	Y	N
WYOMING		
AL Harrison	Y	N

Democrats in this type; *Republicans in italics*

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CONGRESSIONAL QUARTERLY

The Week In Congress

Conservative Coalition

The "conservative coalition" may be losing power but it is not dead. It rose in the House this week to slap at President Kennedy's Urban Affairs Department plan, and it could rise again on youth employment, education, unemployment compensation, foreign aid and medicare, none of which has yet been brought before the House. Any hopes the Administration has had of mollifying the Republican-Southern Democrat voting alliance until a tax bill clears the House may now be dashed by the drive for civil rights legislation. A Fact Sheet analyzes coalition voting to date. (Page 921)

Apportionment Issues

The Supreme Court's fall term will be faced with the delicate question of whether to exercise jurisdiction over malapportioned Congressional districts, just as the court chose to do in state legislature apportionment in Baker v. Carr. CQ's Fact Sheet details the background, legal precedents and wide-ranging implications of the issue before the court. (Page 938) Another survey reviews the latest status of court orders and legislative action to effect reapportionment in the 50 state legislatures, together with revised national totals. (Page 943)

Civil Rights

The Administration decided to postpone for another week submission to Congress of its new, expanded civil rights program, but the President said he was preparing an Executive Order to prevent discrimination in federal and federally-aided construction programs. Meanwhile, civil rights demonstrations continued across the U.S., the Supreme Court delivered opinions encouraging further desegregation, some liberal Republicans accused the Administration of foot-dragging on rights, and Senate Republicans issued a statement of support for new legislation. (Page 927)

Willis, Evins Biographies

Rep. Edwin E. Willis (D La.), 58, was named chairman of the House Un-American Activities Committee following the death of Rep. Francis E. Walter (D Pa.) May 31. (See biography, p. 929) CQ also carries a biography of Rep. Joe L. Evins (D Tenn.), new chairman of the House Select Small Business Committee. (Page 930)

Roll-Call Votes

HOUSE: Reorganization plans, adjournment of civil rights discussion; p. 948.

Central Arizona Project

A June 3 Supreme Court decision has encouraged new efforts among Arizona Congressmen to seek authorization of a controversial billion-dollar water project for Central Arizona. Although the state appears to be heading into a water crisis -- the water table in Phoenix is dropping 10 feet a year -- the outlook for favorable action in Congress is far from certain. Conservationists, Californians, and private power groups all are expected to train their guns on the project and it remains to be seen whether its prime advocate, Senate dean Carl Hayden, can salvage it from the crossfire. (Page 932)

Floor Action

The House passed a bill authorizing $1.6 billion for construction at military installations in the U.S. and abroad and for building and maintenance of military family housing.... Congress sent to the President the first regular appropriation bill for fiscal 1964, a total of $6,045,466,000 for the Treasury and Post Office Departments.... After adopting an amendment prohibiting the President from using a reorganization plan to create a new executive department, the House voted to extend for two years the Reorganization Act of 1949. (Pages 924-926)

In the Committees

Six bills designed to aid U.S. migratory workers were reported to the Senate.... The House Ways and Means Committee completed its annual task of extending corporate and excise taxes.... The Committee also took some complicated action on the President's capital gains tax proposals.... A House committee looked into the disappearance of $7.5 million in U.S. securities from the San Francisco Federal Reserve Bank.... And hearings were held in both chambers on the President's plan for a National Service Corps. (Pages 933-936)

CONGRESSIONAL QUARTERLY

Weekly Report

No 24 June 17, 1966

VOL. XXIV
PAGES 1264-1325

THE AUTHORITATIVE REFERENCE ON CONGRESS AND POLITICS

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House Passes Food for Freedom

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Treasury, P.O. Funds, Bail Reform Cleared

Page 1270, 1271

Reapportionment

Results of State-by-State Survey

Page 1285

Balance of Payments

Page 1281

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Packaging Provisions 1273
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Election Results, Outlook

New York, Illinois, South Carolina

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Congressional Boxscore

MAJOR LEGISLATION IN 89th CONGRESS

Second Session

As of June 16, 1966

Party Line-up

	Dem.	GOP	Vacanciès
House Line-up	293	139	3
Senate Line-up	67	33	0

BILL		HOUSE		SENATE		STATUS
Elementary School Aid	(HR 13160) (S 3046)	Approved by Subcommittee		Hearings Completed		
Higher Education	(HR 14644) (S 3047)	Reported 4/29/66	Passed 5/2/66			
Poverty Amendments	(HR 15111)	Reported 6/1/66		Hearings Scheduled		
Truth-in-Packaging	(S 985)			Reported 5/25/66	Passed 6/9/66	
Hospital Modernization	(HR 13198) (S 3009)			Hearings Completed		
Health Manpower	(HR 13196) (S 3102)	Reported 6/16/66	Debate Scheduled			
Cold War GI Bill	(S 9)	Reported 2/3/66	Passed 2/7/66	Reported 6/1/65	Passed 7/19/65	PL 89-358 3/3/66
Civil Rights	(HR 14765) (S 3296)	Approved by Subcommittee		Hearings Underway		
Foreign Aid Authorization	(HR 12449) (S 2859)	Hearings Completed		Ordered Reported		
Food For Freedom	(HR 14929) (S 2933)	Reported 5/27/66	Passed 6/9/66	Hearings Completed		
Transportation Department	(HR 13200) (S 3010)	Hearings Completed		Hearings Completed		
Legislative Reapportionment	(H J Res 2) (S J Res 103)	Hearings Suspended		Reported 3/2/66	Rejected 4/20/66	
Auto Safety	(HR 13228) (S 3005)	Hearings Completed		Hearings Completed		
Highway Safety	(HR 13290) (S 3052)	Ordered Reported		Ordered Reported		
Four-Year House Term	(H J Res 807) (S J Res 126)	Hearings Completed				
Campaign Financing Reforms						
Electoral College Changes	(S J Res 58)			Hearings Underway		
Tax Program	(HR 12752)	Reported 2/15/66	Passed 2/23/66	Reported 3/2/66	Passed 3/9/66	PL 89-368 3/15/66
Repeal of 14(b)	(HR 77)	Reported 2/22/65	Passed 7/28/65	Reported 9/9/65	Set Aside 2/10/66	
Antistrike Law						
Minimum Wage	(HR 13712) (S 1986)	Reported 3/29/66	Passed 5/26/66	Hearings Completed		
Unemployment Compensation	(HR 15119) (S 1991)	Ordered Reported	Debate Scheduled			
City Demonstrations	(HR 12341) (S 2842)	Hearings Completed		Hearings Completed		
Urban Development	(HR 12946) (S 2977)	Hearings Completed		Hearings Completed		
Clean Rivers	(HR 13104) (S 2987)			Hearings Completed		

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HOUSE APPROVES FOOD FOR FREEDOM BILL

The House June 9 by a 333-20 roll-call vote passed and sent to the Senate with amendments an Administration bill (HR 14929), the Food for Freedom Act of 1966. *(For voting, see chart p. 1323.)*

The bill amended and enlarged the existing Food for Peace program (PL 480), which was scheduled to expire at the end of 1966, and extended its major provisions through calendar 1968. The bill authorized expenditure commitments of $3,333,000,000 in each of calendar years 1967 and 1968, including $2.5 billion for local currency and dollar sales under Title I, $800 million for donation programs under Title II and $33 million for a new farmer-to-farmer assistance program. Actual expenditures under PL 480 totaled about $2 billion annually.

HR 14929 shifted the emphasis of PL 480 from surplus disposal to planned production for export and established efforts on the part of foreign countries to increase their own agricultural production as a criterion for receiving food under the program. It also provided for the first time that efforts by recipient countries to control population would be one of the factors considered by the United States in signing food aid agreements and specified that foreign currencies acquired by the United States under the program could be given back to the countries to finance birth control programs.

In addition, the bill changed the length of time foreign countries were allowed to pay the United States dollars for commodities sold under long-term credit arrangements from 20 years after a two-year grace period to the length of time allowed for foreign aid programs (currently 40 years after a 10-year grace period). Although the majority of food sales were for local currencies, the bill directed the President to effect a gradual transition to dollar sales. Finally, the bill specified that the Government resale price of food in the domestic market could not be less than 15 percent of the support price whenever carryover of the commodity being sold dropped below 25 percent of annual needs.

Prior to passage, the House by a 157-200 roll-call vote rejected a motion by Prentiss Walker (R Miss.) to recommit the bill to the Agriculture Committee with instructions to ban dollar (as well as local currency) sales to all Communist countries (aimed at Poland and Yugoslavia, the only Communist countries currently making such purchases under PL 480) and to prohibit Government resale of commodities at less than 115 percent of the current price-support level *or* less than 80 percent of parity, whichever was higher, whenever carryover was less than 50 (rather than 25) percent. The House previously had rejected amendments embodying similar provisions.

The House adopted, first on a 58-47 standing vote and then on a 193-165 roll-call vote, a committee amendment changing the 20-year limit on payment of sales. It also adopted, by a 48-31 standing vote, an amendment which in effect allowed shipment of fish concentrates under the bill immediately upon enactment. No fishery products were currently being supplied under PL 480.

Another amendment, offered by William F. Ryan (D N.Y.) and accepted by voice vote, wrote into the bill a modified version of a controversial provision in existing law on sales of food to the United Arab Republic (Egypt). The provision had been deleted from PL 480 by the Committee when it drafted HR 14929. Ryan's amendment banned the sale of any food to Egypt under Title I unless the President determined that such a sale was in the national interest. The original Egypt provision -- written into the Act in 1965 -- applied only to local currency sales; Ryan's amendment applied to both local currency and dollar sales. Congress in 1965 first approved and later rejected a flat ban on all food sales to Egypt. *(1965 Weekly Report p. 1721, 1009, 163, 136)*

Administration forces made no effort on the floor to alter a provision which banned all Title I sales to nations trading with or transporting goods to North Viet Nam or Cuba. The Administration had expressed opposition to the provision because of its potential effect on India, which was selling jute bags to Cuba.

The most heated floor debate was stirred by the committee amendment dealing with the period of payment for sales made on long-term dollar credit. Rep. Albert H. Quie (R Minn.) said that to allow a 40-year repayment period after a 10-year grace period "is putting it beyond the generation of people who are in power at the present time. This will lead to requests on our Government to cross off the loan." He said foreign aid loans over a 40-year period were not comparable because they were made mostly on "durable goods...like manufacturing plants, dams and highways." Thomas G. Abernethy (D Miss.) took a similar position. Page Belcher (R Okla.) said the Committee had first voted 21-12 to retain the 20-year repayment period and had later reversed itself by approving the 40-year period by a vote of 19-15.

W.R. Poage (D Texas) defended the amendment, noting that there was no more certainty of recapturing a payment after 20 months than there was after 40 years because governments could change at any time. "What we are trying to do is to stabilize those governments so that friendly governments will be in charge and we will have someone...who will recognize the obligation of a debt," he said. He asserted that there was no more security offered by the building of a plant than by providing a food item, and regardless of what the optimum repayment period might be, "it should be just as favorable for the sale of agricultural commodities as it should be for the sale of industrial commodities or for the purchase of any kind of commodities from our competitors."

PROVISIONS -- As passed by the House, HR 14929 made the following major revisions in the Agricultural Trade Development and Assistance Act of 1954 (PL 480):

Policy. Eliminated reference to U.S. "surplus" commodities, thus changing the emphasis from surplus disposal to planned production for export. Emphasized that countries receiving commodities under the Act show a determination "to improve their own agricultural production."

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Title I -- Sales for Dollars and Local Currencies. Combined the existing Title I (sales for local currencies) and the existing Title IV (sales for dollars) into a new Title I covering all sales.

Required the President, in entering into sales agreements, to "take into account efforts of friendly countries to help themselves toward a greater degree of self-reliance, especially in providing enough food to meet the needs of their people (and) their activities related to the problems of population growth." Directed the President to consider the recipient country's activities in eight specific areas of agricultural development.

Revised the list of purposes for which foreign currencies acquired under Title I sales could be used by (1) adding grants to foreign countries for programs of maternal welfare, child health and nutrition and -- where participation is voluntary -- programs related to population growth problems; and (2) adding cooperatives to the types of U.S. and foreign businesses eligible for "Cooley loans." Required that at least 20 percent of the foreign currencies loaned back to the foreign countries (with certain exceptions) be allocated for programs in the eight specific areas of agricultural development in which the President was directed to weigh progress prior to signing sales agreements.

Banned any sales to nations trading with or transporting goods to North Viet Nam or Cuba. (PL 480 banned sales for local currencies to unfriendly nations and sales to any nation transporting goods to Cuba)

Broadened the ban on local currency sales to the United Arab Republic (Egypt) unless the President "determines that such sale is in the national interest" to include dollar sales as well.

Changed the 20-year limit on payment of dollars for sales made on long-term credit to the maximum length of time permitted under Section 201 of the Foreign Assistance Act (currently 40 years). Directed the President, when practicable, to require that no less than 5 percent of the purchase price of any commodity sold under Title I be paid upon delivery in dollars or hard currencies and that, whenever practicable, commodities sold under Title I be identified as having been provided through the "generosity" of the United States.

Required that the President conduct the Title I program in a manner to assure a progressive transition from sales for foreign currencies to sales for dollars, to be completed by Dec. 31, 1971.

Authorized a maximum annual expenditure commitment of $2.5 billion, plus any unused previous authorizations, for local currency and dollar sales during each of calendar years 1967 and 1968.

Title II -- Donation Programs. Combined famine relief programs in Title II and sections on donations through international agencies in Title III into a new Title II.

Authorized the Commodity Credit Corp. (CCC) to pay, in addition to the cost of acquisition, the costs of packaging, enrichment, preservation and fortification of commodities under Title II. Gave the President new general authority to go into the market and purchase any commodity for donation programs.

Authorized an annual expenditure commitment of $800 million, plus any unused previous authorizations, for donation programs during each of calendar years 1967 and 1968.

Title III. Deleted several sections which were incorporated in the new Title II and left unchanged the barter section of PL 480.

Title IV. Substituted for the existing Title IV a new title containing miscellaneous provisions.

Authorized the Secretary of Agriculture to establish and administer, in cooperation with private nonprofit farm organizations, a new program of farmer-to-farmer assistance, with annual appropriations of $33 million.

Added two additional members each from the House and Senate Agriculture Committees to the existing Congressional-Executive committee to advise the President on administration of the Act.

Prohibited any assistance under the Act to governments of nations which had expropriated property of U.S. citizens without payment of just compensation or appropriate action upon a judgment in favor of U.S. citizens.

Permitted supplying of domestic fishery products (including fish concentrate) under the Act.

Other Provisions. Directed the Secretary of Agriculture to adjust domestic production of commodities covered by voluntary programs so that the carryover would be not less than 25 percent of total annual requirements. Prohibited the CCC from selling any such commodity in the open market at less than 115 percent of the current support price whenever carryover of it was less than 25 percent.

Allowed financing of sales of textiles under Title I if the raw cotton content accounted for a "substantial" portion of the sales price.

AMENDMENTS ACCEPTED

June 9 -- Delbert L. Latta (R Ohio) -- Authorize the Secretary of Agriculture to consult and cooperate with private nonprofit farm organizations in administering the farmer-to-farmer programs. Voice vote.

Otis G. Pike (D N.Y.) -- Delete from the provision authorizing shipment of fishery products language excluding fish concentrate until approved by the Food and Drug Administration. Standing, 48-31.

William F. Ryan (D N.Y.) -- Prohibit any sales to the United Arab Republic under Title I unless the President determined they were in the national interest. Voice.

AMENDMENTS REJECTED

June 9 -- Paul Findley (R Ill.) -- Extend the ban on Title I sales to Communist countries to dollar sales as well as local currency sales. Standing vote, 43-85.

Albert H. Quie (R Minn.) -- Prohibit the CCC from selling any commodity in the domestic open market at less than 115 percent of the current support price or less than 80 percent of parity (whichever is higher) whenever carryover of it was less than 50 percent. Standing, 46-70.

Clair Callan (D Neb.) -- Limit the authorization for the farmer-to-farmer program to $5 million in each of fiscal years 1967 and 1968 and $33 million a year thereafter. Voice.

Richard L. Ottinger (D N.Y.) -- Make technical changes in the section on the farmer-to-farmer program. Standing, 31-89.

Ottinger -- Authorize the President (rather than the Secretary of Agriculture) to administer the farmer-to-farmer program through existing departments or agencies such as the Peace Corps, and reduce the annual authorization for the program to $7 million. Standing, 23-90.

BACKGROUND -- The House Agriculture Committee May 27 reported HR 14929 (H Rept 1558). *(Weekly Report p. 1143)*

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DEFENSE PROCUREMENT, MILITARY PAY

The House June 14 by a 356-2 roll-call vote passed and sent to conference an Administration-backed bill (S 2950) authorizing appropriations of $10,579,500,000 in fiscal 1967 for procurement of aircraft, missiles, naval vessels and tracked combat vehicles and $7,278,559,000 for defense research and development activities (R&D), a total of $17,858,059,000. *(For voting, see chart p. 1323.)*

The bill also provided an across-the-board military pay increase of 3.2 percent and contained language intended to prohibit the Secretary of Defense from eliminating any major weapons system without first securing the advice of Congress.

As passed by the House, S 2950 authorized a total of $931.1 million above requests and $688 million more than the amount provided by the Senate, which passed the bill April 28. *(Weekly Report p. 907)*

In its major changes from the Senate bill, the House-passed version added $253.4 million to restore two conventionally powered guided missile destroyers denied by the Senate and to add a second nuclear-powered guided missile frigate; $80 million for Air Force R&D relating to a manned orbiting laboratory (bringing the total for this activity to $230 million); $51.2 million for Air Force procurement of the CX-2 jet aircraft for aeromedical evacuation use; and $50 million for Navy R&D on anti-submarine warfare programs. The Senate bill also did not include the military pay increase and the restrictions on phase-out of major weapons systems. The military pay raise was not sought by the Administration but was acceptable to it.

All of the major House changes from the Senate version of S 2950 were embodied in amendments written into the measure by the House Armed Services Committee. The House accepted only one floor amendment -- a proposal by Jack Edwards (R Ala.) to add language directing the Navy in all its oceanographic research programs to give "due regard" to benefits which might accrue to the U.S. merchant marine.

Voting for passage of the bill were 116 Republicans and 240 Democrats. The only Members opposing the measure were George E. Brown Jr. (D Calif.) and Thomas B. Curtis (R Mo.).

Amid a routine discussion of the bill, numerous House Members from both parties rose to welcome Armed Services Committee Chairman L. Mendel Rivers (D S.C.), the bill's floor manager, on his return from several days' hospitalization for what he said was bursitis and to applaud his influence in reasserting the role of Congress in defense policy-making.

The round of tributes was thought to have been stimulated in part by a highly critical Drew Pearson column about Rivers.

PROVISIONS -- As passed by the House, S 2950 authorized the following sums (figures in parentheses are subtotals):

Procurement	($10,579,500,000)
Army	(1,481,600,000)
Aircraft	612,400,000
Missiles	510,000,000
Tracked Vehicles	359,200,000
Navy and Marine Corps	(3,840,900,000)
Aircraft	1,442,200,000
Missiles	385,400,000
Ships	$2,009,600,000
Tracked Vehicles	3,700,000
Air Force	(5,257,000,000)
Aircraft	4,067,500,000
Missiles	1,189,500,000
Research, Development, Test and Evaluation	(7,278,559,000)
Army	1,581,700,000
Navy and Marine Corps	1,891,300,000
Air Force	3,221,500,000
Defense Agencies	459,059,000
Emergency Fund, Department of Defense	125,000,000
TOTAL	$17,858,059,000

In addition, S 2950:

Included language earmarking the following sums for specific activities: $20 million for Navy procurement of additional aircraft and electronic equipment to expand the airborne-operated television network in Viet Nam; $55 million for Air Force procurement of (or maintenance of a production capability for) the F-12 manned jet interceptor aircraft; $51.2 million for Air Force procurement of the CX-2 jet aircraft (for aeromedical evacuation use); $153.5 million for Army pre-production activities relating to the Nike-X missile defense system; $130.5 million as reauthorization for the unappropriated balance of a $150.5 million nuclear-powered guided missile frigate authorized under PL 89-37 but only partially funded; $127.8 for a second nuclear frigate; $431.1 million for Army R&D activities relating to the Nike-X system; $26.6 million for Navy R&D on the Condor medium range guided missile; $8.6 million for Air Force R&D relating to the advanced manned strategic aircraft (AMSA); and $230 million for Air Force R&D relating to a manned orbiting laboratory.

Directed the Secretaries of Defense and of the Navy to plan and construct the two nuclear-powered guided missile frigates "as soon as practicable."

Increased the basic pay (but not special allowances) of active members of the Armed Services by 3.2 percent for all grades -- officers and enlisted, effective July 1, 1966.

Prohibited the Secretary of Defense from eliminating any major weapons system without first submitting his plans to Congress while Congress was in session. Stipulated that the Armed Services Committees of both chambers then would have 90 days to advise the Secretary of their recommendations on his plan of action.

AMENDMENT ACCEPTED

June 14 -- Jack Edwards (R Ala.) -- Add language directing the Navy in all its oceanographic research programs to give "due regard" to benefits which might accrue to the U.S. merchant marine. Voice vote.

BACKGROUND -- The House Armed Services Committee May 16 reported S 2950 with amendments authorizing $17,858,059,000. It had been approved by a 33-0 vote.

Following are the major changes made by the Committee in the version of the bill passed by the Senate:

Aircraft. Authorized appropriation of an additional $71.2 million, including $51.2 million for Air Force procurement of the CX-2 jet aircraft for aeromedical evacuation use and $20 million for Navy procurement of

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additional aircraft and electronic equipment to expand the airborne operated television network used in Viet Nam.

Naval Vessels. Approved an additional $253.4 million ($258.3 million above requests) to restore the two conventionally powered guided missile destroyers denied by the Senate and to add a second nuclear-powered guided missile frigate.

Nuclear Frigates. Provided $258.3 million for the two nuclear frigates (request: none; Senate: $150 million). The authorization was broken down to provide $130.5 million as reauthorization for the unappropriated balance of a $150.5 million frigate authorized in 1965, but only partially funded, and $127.8 million for a second frigate (which would be identical to the first but would cost less when the two were contracted together). The Senate, in allotting $150 million as reauthorization for the first vessel, had ignored the $20 million already appropriated and also (because of a variance in cost estimates) had provided $500,000 less than the $150.5 million authorized in 1965.

Conventional Destroyers. Provided $145.1 million for the two conventional destroyers (request: same; Senate: denied authorization of the conventional vessels, but allotted the $145.1 million in combination with an additional $4.9 million to provide the one nuclear frigate).

Mandatory Language. The Committee also added a proviso to the bill requiring the Secretaries of Defense and of the Navy to proceed with construction of the two nuclear powered frigates "as soon as practicable." "If this language constitutes a test as to whether Congress has the power to so mandate," the report said, "let the test be made and let this important weapons system be the field of trial."

Research and Development. Increased the Senate allotment for R&D by $363.4 million ($373.2 million over requests) to expand or accelerate 12 Army, 29 Navy and 6 Air Force projects. Major increases included $80 million in Air Force R&D funds (a total of $230 million) for a manned orbiting laboratory, $50 million in Navy outlays for anti-submarine warfare programs, $26.6 million in Navy funds for the Condor air-to-surface guided missile, and $11.8 million in Air Force outlays (for a total of $22.8 million) in support of the contract definition phase of the controversial advanced manned strategic aircraft (AMSA), a proposed successor to existing manned bombers. *(For manned bomber controversy, see Weekly Report p. 1000, 871; 1965 Weekly Report p. 2458)*

Military Pay Increase. Added to the bill a new title increasing the basic pay (but not special allowances) of all active armed services personnel by 3.2 percent, effective July 1, 1966. The report said the increase was necessary to raise military pay commensurate with a 2.87 to 2.9 percent federal civilian pay increase embodied in legislation (HR 14122) passed by the House April 6 and pending in the Senate.

Because the somewhat higher military pay increase applied only to basic pay, it said, the effect of the increase would be the same under both measures. *(Weekly Report p. 1227, 741)*

Weapons Systems. Added a second new title prohibiting the Secretary of Defense from eliminating any new weapons system without first submitting his plans to Congress. Armed Services Committees of the House and Senate then would have 90 days to formulate their recommendations to the Secretary on the proposed phase-out. The effect of the new title, the report said, would be to "simply ensure the free flow of and exchange of information between the Executive and Legislative branches...concerning the establishment and maintenance of an adequate system of national defense."

While the proviso was the "direct result" of the Committee's belief that the B-58 bomber system should not be phased out, the report said, the "fundamental purpose of the language is to ensure that such a situation will not again occur in the future without the Congress being aware of all the pertinent details upon which such a decision was based."

Decision-Making Process. The report also contained a statement of committee views forecasting a "new era" of Congressional participation in military policy-making.

In the past, the statement said, Defense Secretary Robert S. McNamara had not only overruled "sound military recommendations" by the Joint Chiefs of Staff, but had sought to mislead Congress as to what they had recommended. In addition, it said, his "almost obsessional dedication to cost effectiveness raises the specter of a decisionmaker who...knows the price of everything and the value of nothing."

TVA REVENUE BONDS

The House June 9 passed by voice vote and sent to the Senate an Administration-backed bill (HR 15225) raising by $1 billion the existing $750-million ceiling on the amount of revenue bonds the Tennessee Valley Authority (TVA) may have outstanding to finance expansion of its power program.

During debate on HR 15225, Robert E. Jones (D Ala.) said the additional bonding capacity would finance construction of generating and transmission facilities in the TVA area for "the next six or seven years." Jones, who introduced the bill, also said that TVA bonds had carried interest rates between 4.4 and 4.7 percent. H.R. Gross (R Iowa) asked Jones if the TVA would be able to sell bonds carrying lower interest rates than certificates "sold under the Sales Participation Act at 5-1/2 percent interest?" Jones replied that TVA bonds "have been purchased since 1959. Therefore there is no reason to suspect that they will not be well received by the purchasing public."

The last TVA bond issue (Jan. 24, 1962) was offered at 4.50 percent. The interest rate on the next issue would depend on the market rate at the time the issue was offered. The TVA was required by law (PL 86-137) to charge power rates high enough to cover its expenses, including those expenses connected with payment of principal and interest on its bonds outstanding. *(Congress and the Nation p. 931)*

The first offering of participation certificates under the PL 89-429, the Participation Sales Act, was made June 9, and carried interest rates up to 5.75 percent. *(See p. 1313, Weekly Report p. 1056.)*

BACKGROUND -- President Johnson May 20 sent Congress draft legislation to raise the TVA's bonding authority to $1,750,000,000. *(Weekly Report p. 1161)*

The House Public Works Committee May 31 reported HR 15225 (H Rept 1559) without amendment. *(Weekly Report p. 1230)*

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FOREIGN SERVICE BUILDINGS

The House June 13 by a 290-3 roll-call vote passed and sent to the Senate an amended bill to authorize appropriations of $29,810,000 to the State Department for the acquisition of overseas buildings by lease, purchase or construction and $25,350,000 for maintenance and repairs during fiscal 1968 and 1969. *(For voting, see chart p. 1323.)*

In addition, HR 14019 provided an extra $1.6 million to permit the construction of a larger U.S. Chancery in Saigon than that planned after the building was bombed March 30, 1965, by terrorists. The sum was in addition to the $1 million authorized and appropriated in 1965 immediately following the incident, bringing the total authorized to $2.6 million. Wayne L. Hays said that the increase for the chancery was "added at my suggestion" after a trip to Saigon during which he saw that the original sum was going to be insufficient to build an adequately secure and economical building. He said the Administration was eager to build an enlarged chancery if Congress concurred. *(1965 Weekly Report p. 906, 1725)*

The House adopted one floor amendment to authorize an additional $2.2 million for the building of new Government quarters in Bogota, Colombia. The bill passed after brief debate and with minimal opposition.

HR 14019, the Foreign Service Buildings Act of 1966, authorized appropriations to the Secretary of State of $28,210,000 for building acquisition (the Administration had requested $36,065,000); increased the authorization for building in South Viet Nam from $1 million to $2.6 million; and authorized $12.6 million for fiscal 1968 and $12,750,000 for fiscal 1969 for maintenance and repair (the Administration requested an open-ended authorization).

AMENDMENT ACCEPTED

Wayne L. Hays (D Ohio) -- Authorize an additional $2.2 million for acquisition of buildings "in the American Republics." (The sum was for buildings in Bogota, Colombia.) Voice vote.

BACKGROUND -- The House Foreign Affairs Committee May 24 reported the Administration bill (HR 14019 - H Rept 1551) with amendments.

SHIP CONSTRUCTION SUBSIDIES

The Senate June 15 passed by voice vote and sent to the House a bill (S 2858) to extend for one year, to June 30, 1967, the temporary ceilings on federal subsidies for new construction and reconditioning of U.S. merchant vessels in U.S. shipyards. The subsidies were designed to help U.S. shipbuilders meet competition on the world shipbuilding market.

The temporary ceilings extended by S 2858 were 55 percent for new construction and 60 percent for reconditioning. The ceilings were scheduled to revert to the permanent 50-percent level June 30 unless extended.

During brief debate June 15, Frank J. Lausche (D Ohio) and John J. Williams (R Del.) objected that the subsidies were not meeting their objective. Lausche argued that the rationale for the original subsidies was that the cost differential between U.S. and foreign construction would gradually decline. Instead, he said, it had grown larger, and the merchant marine had grown "weaker and weaker," despite payment by the U.S. taxpayers of $2 billion in subsidies over the last 30 years.

BACKGROUND -- The Senate Commerce Committee June 1 reported S 2858 (S Rept 1198). *(Weekly Report p. 1230)*

RELATED DEVELOPMENT -- The House Merchant Marine and Fisheries Committee June 7 reported its own bill (HR 12591 -- H Rept 1617) extending the temporary subsidy ceilings for two years, to June 30, 1968.

FOREIGN INVESTORS TAX

The House June 15 by voice vote passed and sent to the Senate an Administration-backed bill (HR 13103) amending U.S. tax laws to provide more equitable tax treatment of investments by foreigners in the United States.

HR 13103 was designed both to induce additional foreign investment in U.S. stocks and bonds (thus reducing the U.S. balance-of-payments deficit) and to tighten rules governing business earnings by certain foreign companies acquiring goods through U.S. offices and selling them elsewhere. Its provisions constituted the first systematic overhaul of U.S. tax laws relating to foreign investment since 1941. (The Treasury estimated net revenue effects of the legislation at an annual gain of $1 million.)

In its major incentive to additional foreign investment, the bill provided a lower rate of taxation on a foreign investor's income derived from U.S. stocks and bonds than on his business income. Under existing law, both types of income were taxable at the regular graduated income tax rates, ranging up to 70 percent for individuals and 48 percent for corporations. Under HR 13103, dividend income would be taxed at a flat rate of 30 percent or even lower if provided for by treaty with the investor's government.

As additional incentives, the bill provided for taxation of capital gains only if the investor spent more than six months of the year in the United States (as opposed to three months under existing law) and reduced taxation of U.S. estates held by non-resident foreigners to provide approximately the same tax treatment as accorded similar-sized estates of U.S. citizens.

In a crackdown on certain foreign businesses avoiding U.S. taxation, the bill contained a provision taxing income from foreign sources (at regular rates) when it was determined that such income was "effectively connected" with U.S. business operations. Under existing law, foreign companies which acquired U.S. merchandise through U.S. offices and resold the goods in foreign countries were exempt from U.S. taxes on the proceeds.

House passage of HR 13103 came after more than a year's study by the House Ways and Means Committee. As originally proposed by the Administration, the bill envisioned only the incentives to foreign investment. At the urging of Ways and Means Committee Chairman Wilbur D. Mills (D Ark.), however, the measure was rewritten to provide the comprehensive overhaul of pertinent tax law.

PROVISIONS -- For major provisions see Weekly Report p. 966.

BACKGROUND -- HR 13103 was reported by the House Ways and Means Committee (H Rept 1450) April 26.

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TREASURY - POST OFFICE FUNDS

The House and Senate June 15 by voice votes adopted the conference report (H Rept 1624) on a bill (HR 14266) appropriating $7,196,429,135 in fiscal 1967 for the Treasury and Post Office Departments, the Executive Office of the President and two independent agencies. The actions sent HR 14266 to the President.

The appropriations total was lower than requested and lower than originally approved by both chambers. As sent to the President, HR 14266 appropriated $50,290,865 less than the Administration request, $13,748,000 less than voted by the House, and $13,620,000 less than the Senate sum. The major decreases from House and Senate totals were in amounts appropriated for Post Office Department activities.

Major appropriations included in HR 14266 were: $1,374,099,000 for the Treasury Department; $5,802,533,000 for the Post Office Department; and $17,014,135 for the Executive Office of the President.

During House floor consideration of the conference report, Tom Steed (D Okla.), chairman of the House Appropriations Subcommittee on the Departments of Treasury and Post Office and the Executive Offices, said, "No item in this bill exceeds the Budget request...I thought that the Members of the House would be happy to know that we have now finished at least one appropriation bill that is not in excess of the Budget and which actually is less, for a change, than the amount originally or previously approved by the House of Representatives."

PROVISIONS -- The breakdown of funds in HR 14266 as sent to the President:

TREASURY	
Office of the Secretary	$ 6,900,000
Bureau of Accounts	32,988,000
Bureau of Customs	85,793,000
Bureau of the Mint	26,500,000
Bureau of Narcotics	6,138,000
Bureau of Public Debt	51,894,000
Coast Guard	492,681,000
Internal Revenue Service	650,229,000
Office of the Treasurer	6,348,000
U.S. Secret Service	14,628,000
Subtotal	$1,374,099,000
POST OFFICE	
Administration and regional operation	$ 93,559,000
Research, development and engineering	16,152,000
Operations	4,710,000,000
Transportation	605,000,000
Facilities and supplies	239,822,000
Plant and equipment	138,000,000
Subtotal	$5,802,533,000
EXECUTIVE OFFICE OF THE PRESIDENT	
Compensation of the President	$ 150,000
White House Office	2,955,000
Special projects	1,500,000
Executive Mansion and grounds	692,000
Bureau of the Budget	8,913,135
Council of Economic Advisers	790,000
National Security Council	664,000
Emergency fund for the President	$ 1,000,000
Management improvement	350,000
Subtotal	$17,014,135
INDEPENDENT AGENCIES	
U.S. Tax Court	$2,355,000
Advisory Commission on Intergovernmental Relations	428,000
Subtotal	$2,783,000
TOTAL	$7,196,429,135

BACKGROUND -- The House April 6 passed HR 14266 carrying appropriations totaling $7,210,177,135. The Senate May 23 passed the bill carrying $7,210,049,135. *(Weekly Report p. 738, 1057)*

The conference report (H Rept 1624) was filed June 14, carrying $7,196,429,135.

Internal Revenue Service. Accepted the Senate figure for IRS compliance activities (request: $467.8 million; House: $460 million; Senate: $462.1 million).

Post Office Department. Accepted the Senate figure for research, development and engineering activities (request: $16,152,000; House: $12 million; Senate: same as request).

Accepted the House figure for postal operations (request: $4,725,374,000; House $4,710,000,000; Senate: $4,723,370,000).

Accepted the Senate figure for postal plant and equipment (request and House: $158 million; Senate: $138 million).

Independent Agencies. Denied funds for the Administrative Conference of the United States (House: none; request and Senate: $250,000).

RENEGOTIATION ACT

The House June 15 passed by voice vote and sent to the Senate a bill (HR 13431) to extend for the eighth time the Renegotiation Act of 1951 which authorizes the Government to "recapture excessive profits" charged by private firms on defense and space contracts, or related subcontracts, made with certain specified federal agencies.

HR 13431 extended the present Act for an additional two years, from June 30, 1966, until June 30, 1968. The Administration had asked for a six-year extension. The bill was passed after brief debate on the merits of renegotiation and with limited Republican opposition.

Wilbur D. Mills (D Ark.), manager of the bill, cited the difficulty of pricing new and specialized equipment which sometimes results in excessive profits on Government contracts. He said the difficulty was compounded by the increase in defense procurement occasioned particularly by the situation in Viet Nam.

BACKGROUND -- The Renegotiation Act (PL 82-9) took effect Jan. 1, 1951, during the Korean War and was extended periodically -- the last time being in 1964. *(1964 Almanac p. 565; For operation of the Act, and exemptions under it, see 1962 Almanac p. 540.)*

The House Committee on Ways and Means reported HR 13431 (H Rept 1610) June 6. The report also contained separate views of Thomas B. Curtis (R Mo.) which held that the extension was unjustifiable and that "sound procurement practices should be substituted for renegotiation."

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BAIL REFORM

The Senate June 9 by voice vote concurred in House amendments to and sent to the President an Administration-backed bill (S 1357), the Bail Reform Act of 1966. The House passed the bill June 7 by a 319-14 roll-call vote. *(Weekly Report p. 1217; for voting, see chart p. 1262.)*

Passage of the bill marked the first significant federal bail legislation since basic bail procedures for federal prisoners were established by the Judiciary Act of 1789.

The bill set up procedures for federal judicial officers to follow in releasing persons charged with noncapital federal offenses. It required the release of such persons unless the judicial officer determined that the person was unlikely to appear later as required. The bill also provided for release of persons charged with capital offenses or convicted of an offense and awaiting sentence or the outcome of an appeal and it required that credit be given toward sentence for time spent in confinement awaiting trial.

Senate action June 9 came after brief debate in which Sam J. Ervin Jr. (D N.C.), sponsor of the bill, said that House amendments to the measure were acceptable to him and "improved and polished" the bill.

The House amendments deleted provision for pretrial release of prisoners to probation officers; deleted the "daylight hours" condition of release and specified instead that return to custody could be required after "specified" hours; deleted provision for crediting pretrial confinement against an eventual fine; and required the Attorney General rather than the courts to give automatic credit for pretrial confinement against an eventual sentence.

Debate in the House centered on sections of the bill which added Sections 3147 and 3148 to the federal bail statutes. The first section authorized prompt appellate review of a court order resulting in the detention of any person or in imposing a condition to return to custody after specified hours. The bill said the lower court order was to be affirmed "if it is supported by the proceedings below."

William C. Cramer (R Fla.), although generally supporting the bill, argued that present law held that lower court orders on bail would not be disturbed on appellate review unless there was a showing of "abuse of discretion." He asked if the phrase "supported by the proceedings below" established a new standard for appellate courts to follow.

Emanuel Celler (D N.Y.) said the bill laid down "no precise standard" but proceeded on the theory that judges should release such prisoners while leaving specific findings "more or less" to the discretion of the judge.

Section 3148 extended the conditions-of-release provisions to persons charged with capital crimes or convicted of a crime and awaiting sentence or appeal, unless the judge found that the person might flee or posed a threat to the community. Cramer questioned the Section; he said that persons convicted of crime should be held up to a "new or different" standard for release than were persons charged with crime but not yet convicted. Celler said the "stinger" in the Section was the language requiring release "unless the judge found that the defendant posed a danger to the community or might flee. He called those "appropriate safeguards."

Cramer offered an amendment to make release of persons charged with a capital crime or convicted of a crime and awaiting sentence or appeal, permissive rather than mandatory. The amendment was rejected by an 18-25 standing vote.

Shortly before passage, Durward G. Hall (R Mo.) moved to recommit the bill to the Judiciary Committee with instructions to report it back with the Cramer amendment. The House by voice vote rejected the motion.

PROVISIONS -- As sent to the President, S 3157, the Bail Reform Act of 1966:

Required release on personal recognizance or on unsecured bond of persons charged with noncapital federal offenses at the time of appearance before a judicial officer unless the officer found that release would "not reasonably assure" appearance as required.

Empowered judicial officers, in lieu of or in addition to such release, to impose one of five conditions or combinations thereof, choosing the first which most reasonably assured the person's appearance. The conditions were: release in the custody of a designated person or organization; restrictions on travel, association or place of abode; appearance bond with no more than 10-percent cash deposit; bail bond or full cash deposit; or "any other condition deemed reasonably necessary to assure appearance as required, including a condition requiring that the person return to custody after specified hours."

Required the judicial officer in setting conditions of release to take into account the offense charged, the weight of evidence against the accused, his family ties, employment, financial resources, character and mental condition, length of residence in the community, prior record of convictions and his record of prior appearances or flights to avoid prosecution.

Permitted persons unable to meet conditions of release or required to return to custody after specified hours to seek review of the conditions by a judicial officer, who was required to present his reasons in writing; if the person was still detained or required to return to custody, he was entitled to move the court of original jurisdiction over the offense to amend the order; if he was still detained after a rule on that motion, an appeal lay to the appropriate appellate court, which was to affirm the lower court order "if it is supported by the proceedings below." If not so supported, the appellate court could order further hearings in the lower court or could order release of the person.

Authorized courts to treat persons charged with capital offense or convicted of a crime and awaiting sentence or appeal the same as persons charged with a crime unless the court had reason to believe the person would flee or would "pose a danger to any other person or to the community." Provisions for review of orders detaining persons charged with crime did not apply.

Required the release of material witnesses under the same provisions applying to persons charged with noncapital offenses, provided that release could be delayed for a "reasonable period" to take the deposition of the witness.

Provided penalties for failure to appear as required: forfeiture of all security given or pledged; up to $5,000 fine and five years in prison for persons charged with a felony; up to one year in prison and the maximum fine for the offense for persons charged with a misdemeanor; and up to $1,000 fine and one year in prison for material witnesses.

Provided that the Act did not apply to persons charged with offenses triable by military tribunal.

Required the Attorney General to give credit toward prison sentence for time spent in custody awaiting trial.

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Provided that the Act took effect 90 days after enactment and that the credit-toward-sentence provision applied only to sentences imposed on or after the effective date.

The House June 7 acted on the following amendment:

AMENDMENTS REJECTED

June 7 -- William C. Cramer (R Fla.) -- Tighten provisions under which a person charged with a capital crime or convicted of a crime and awaiting sentence or appeal could be released. Standing vote, 18-25.

BACKGROUND -- The House Judiciary Committee May 18 reported S 1357 (H Rept 1541) with amendments. *(Weekly Report p. 1067)*

Enactment of bail reform legislation was requested by President Johnson in his March 9 Message on Crime and Law Enforcement. *(Weekly Report p. 552)*

NATIONAL WATER COMMISSION

The Senate June 9 passed by voice vote and without debate and sent to the House an Administration-backed bill (S 3107) establishing a National Water Commission to review U.S. water resource problems and to identify possible solutions to the problems. The bill was passed as reported by the Senate Interior and Insular Affairs Committee.

BACKGROUND -- President Johnson formally proposed establishing a National Water Commission in his Feb. 23 message on conservation. *(Weekly Report p. 442)*

Interior and Insular Affairs Committee Chairman Henry M. Jackson (D Wash.) March 21 introduced the Administration draft legislation, and the Interior Committee May 16-17 held hearings on the bill. The Committee June 8 reported S 3107 (S Rept 1212). The bill had 48 cosponsors.

S 3107 directed the National Water Commission to consider various ways of meeting U.S. water requirements, including more efficient use of water, reduction of water pollution, interbasin transfers of water, and various technological advances, such as desalting and weather modification. The Commission was also to "consider economic and social consequences of water resource development," and to advise on projects submitted to it by the Administration.

The Commission was to have seven members, and none of them could be in the employ of the Federal Government during his term of service on the Commission. The members were to be appointed by the President. In an amendment to the bill, the Committee specified that appointments were to be subject to Senate confirmation. The Commission was to exist for not more than five years.

The Commission was to work closely with the existing Water Resources Council, which was established under the provisions of PL 89-80, the Water Resources Planning Act. The Water Resources Council was composed of the heads of five federal agencies. Its job was to assess the adequacy of water supplies in each region of the United States, oversee regional water plans, coordinate the administration of federal water programs, and establish standards and procedures for federal water projects. *(1965 Weekly Report p. 1508; 1965 Almanac p. 759)*

The National Water Commission was to report to the President periodically on its studies; and the Water Resources Council was to submit to the President its views on the Commission's reports.

Majority Views. The Committee's majority report said the National Water Commission's mandate would be to "study alternative solutions to water problems without prior commitment to any interest, group, region or agency of Government." The report said that neither the proposed Commission nor the Water Resources Council "would be subordinate to the other;" that they "must cooperate and work together."

The report included a letter from the Budget Bureau, endorsing S 3107 as introduced.

Additional Views. Gordon Allott (R Colo.), Thomas H. Kuchel (R Calif.), Milward L. Simpson (R Wyo.) and Paul J. Fannin (R Ariz.) endorsed the bill, but said they were "very disappointed in the defeat of the amendment offered by Sen. Allott which would have directed the Commission to '...give first priority to the water resource problems of the Pacific Southwest and the Colorado River Basin....' and required a final report on or before Jan. 1, 1969. The four Republicans were from states drawing water from the Colorado River system. The one Committee Republican from outside the basin area, Len B. Jordan (Idaho), did not sign the views.

The Republicans said that Interior Department and Budget Bureau testimony, given during hearings on S 3107, indicated that the Administration agreed that "priority consideration" should be given to Colorado River Basin water problems. *(For story on the Lower Colorado River Basin Project, see Weekly Report p. 1058.)*

CLAIMS PROCEDURES

The House June 6 by voice votes passed and sent to the Senate four Administration bills (HR 13650, HR 13651, HR 13652, HR 14182) establishing new procedures for processing private claims and litigation involving the Federal Government. The bills provided as follows:

HR 13650 -- H Rept 1532. Amended the Federal Tort Claims Act to authorize heads of federal agencies to settle claims up to $25,000 and, with approval of the Attorney General, above that amount. Currently only the Attorney General could settle claims, after suit was filed.

HR 13651 -- H Rept 1533. The "Federal Claims Collections Act of 1966," authorized agency heads to attempt collection of Government claims against citizens and to settle such claims up to $5,000. Currently only when claims were referred to the Attorney General for suit could they be settled.

HR 13652 -- H Rept 1534. Set a six-year statute of limitations for actions brought by the United States involving contracts, three years for actions involving a tort and six years for actions involving money erroneously paid. Currently most Federal Government claims were subject to no statute of limitations.

HR 14182 -- H Rept 1535. Authorized courts to award costs to the prevailing party in actions involving the United States. Currently costs were seldom awarded against the government when it lost.

The House Judiciary Committee May 16 reported the bills.

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TRUTH-IN-PACKAGING

The Senate June 9 by a 72-9 roll-call vote passed an Administration-backed "truth-in-packaging" bill (S 985). *(For voting, see chart p. 1322.)*

The measure was designed to prevent deceptive packaging and labeling practices which made it difficult for consumers to determine price-per-unit and make other comparisons between goods on the market. S 985 gave the Government power to set standard package sizes and to require that certain basic product information appear in clear and simple terms on the package labels. The bill primarily covered household and personal goods usually sold in supermarkets and drug stores.

President Johnson June 9, in commending the Senate's action, cited the bill as "one of the most important pieces of legislation before the Congress this year" which "will benefit every housewife and every consumer in the nation."

The federal packaging and labeling standards were to be set by the Secretary of Health, Education and Welfare (for foods, drugs and cosmetics) and by the Federal Trade Commission (for other commodities covered by the bill).

The most controversial provisions of the bill authorized establishment by the HEW and FTC officials of package weights or quantities following a procedure under which producers or manufacturers could participate in developing their own standards.

In addition, the bill directed HEW and FTC officials to establish regulations requiring a label to show the identity and manufacturer of a commodity and certain specific net quantity information. The officials also were permitted, at their discretion, to issue other standards to regulate the use of package characterizations such as "small," "medium," and "large" and label advertising such as "cents-off" deals and "economy size" claims. Under these discretionary standards, Government officials also could define what constituted a "serving" when that term was used on a package, and could require a label to show the ingredients of the product.

But debate and the key floor amendments centered on the provisions that allowed federal standards for package weights and quantities if HEW or FTC officials decided that the existing array of containers made it difficult for consumers to compare prices. There was considerable agreement that the other provisions of the bill, dealing largely with content and placement of information on package labels, were meritorious.

Republicans made a series of unsuccessful attempts to delete various sections of the bill. The key vote was the defeat June 8 of an amendment by Norris Cotton (R N.H.) to delete the section allowing federal package weight and quantity standards. It was rejected by a 32-53 roll call. *(See story, Weekly Report p. 1216.)*

The Senate by voice votes rejected a series of amendments by Minority Leader Everett McKinley Dirksen (R Ill.) to delete most other sections of the bill. It also rejected an amendment by Thruston B. Morton (R Ky.) to add provisions of proposed "fair trade" legislation which allowed manufacturers to fix the minimum retail prices of their nationally branded goods. The proposal, most recently known as "Quality Stabilization," was pushed for years by small retailers and their associations. It was tabled by a 51-29 roll call. *(1964 Almanac p. 75; 1963 Almanac p. 530; Congress and the Nation p. 450)*

Dirksen also sought to have the bill sent to the Judiciary Committee which had considered but never reported truth-in-packaging bills in previous years. His motion was rejected by a 19-64 roll call.

The Senate accepted three relatively minor amendments to the bill *(see below)*.

In proposing the deletion of all the labeling information provisions, Dirksen said the requirements would be redundant in that they paralleled existing laws. He added that where the bill went beyond those laws, it opened "a brand new area for federal administrators to exercise what may be devastating control over large areas of our economy."

Roman L. Hruska (R Neb.), an opponent to the bill, attempted to delete the provision giving manufacturers an opportunity to participate in developing their own standards before the federal standards were established by Government officials. He said the section was misleading because the bill "quite simply under the guise of voluntariness, allows a promulgating authority to make voluntary standards mandatory, even though affected businessmen are following the standards to a letter."

Senators supporting the bill did not refute the charges that similar labeling information laws existed, but said one purpose of S 985 was to more specifically detail labeling and packaging requirements, and to speed-up the drawn-out procedures authorities currently go through in enforcing the regulations.

The costs of the bill for the first year were estimated by the HEW Department and the FTC to be $1.5 million and $250,000 respectively.

PROVISIONS

As passed by the Senate, S 985:

Prohibited the distribution in commerce by a producer or manufacturer of any packaged or labeled "consumer commodity" not conforming to standard and regulations provided by or under authority of the bill.

Exempted the wholesaler and retailer unless such person was part of the packaging and labeling process.

Authorized the Secretary of Health, Education, and Welfare (working through the HEW Department's Food and Drug Administration) and the Federal Trade Commission to establish standards for package information, identification and size.

Vested authority in the HEW Secretary for most foods, drugs and cosmetics, and in the FTC for other household (generally kitchen and bathroom) commodities.

Specifically defined "consumer commodity" to mean any food, drug, device or cosmetic as defined in the Federal Food, Drug and Cosmetic Act, and any other article or product customarily sold for consumption, use or personal care by individuals or to perform household services and which normally is consumed or used-up (that is, nondurable goods).

Exempted certain commodities already under federal law including meats, poultry, tobacco, alcoholic beverages, certain drugs and seeds.

Package Information, Identification Standards. Required (in some cases) and permitted (in other cases) the HEW Secretary and the FTC to establish standards governing the placement and content of information on packages covered by the bill in order to assist consumers in the purchase of goods and commodities.

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Mandatory Regulations. Required the HEW Secretary and the FTC to establish labeling standards which require on packages:

(1) Identification of the commodity, its manufacturer and the place of business;

(2) A separate and accurate statement of the net quantity in a uniform location on the principal display panel of the label; defined the principal display panel as that part of the label most likely to be displayed or shown under normal or customary conditions;

(3) The net quantity, if less than four pounds or one gallon, to be expressed either in ounces or in whole units of pounds, quarts or pints (the manufacturer could state the net quantity in an alternate form in a supplemental statement elsewhere on the package);

(4) The net quantity to appear in "conspicuous" typography contrasting distinctly with the rest of the package;

(5) The net quantity to be stated in a type size established by the Government "in relationship" to the principal display panel and to be uniform for all other packages of substantially the same size;

(6) The statement of net quantity to be "generally" parallel to the base of the package;

(7) That no qualifying words or phrases accompany the primary statement of net quantity on the label. Permitted such qualifying words to appear with a supplemental statement of net quantity elsewhere on the package providing the modifiers did not exaggerate the amount of the net contents (thus permitting a phrase such as "6 oz. of fast acting detergent" but prohibiting "6 jumbo oz. of detergents").

Authorized the HEW Secretary or the FTC to exempt from the foregoing labeling standards any commodity for which the requirements were determined to be impracticable or unnecessary to protect the consumer.

Discretionary Regulations. Permitted, but did not require, the HEW Secretary and the FTC, upon finding it necessary to prevent consumer deception or to facilitate price comparisons, to establish additional labeling standards on a product-by-product basis to:

(1) Designate the relative sizes of packages, such as small, medium, or large; specified that this provision did not authorize any limitation on the size, shape, weight, dimensions, or number of packages which could be used to enclose any commodity;

(2) Define the amount of the net quantity which constituted a serving (for commodities where such a designation was given);

(3) Control the use by manufacturers or producers of statements on the label (such as "cents-off" advertising and "economy size" claims) to indicate that the commodity is offered for retail sale at a price lower than the regular price or that a price advantage is available to the consumer because of the size or quantity of the package (however, the retailer could initiate a lower price sale offer);

(4) Require information on the label as to the ingredients and composition of the commodity to facilitate consumer price comparisons (other than information concerning proprietary trade secrets).

Package Size Standards. Authorized the HEW Secretary and the FTC to establish "reasonable" weights and quantities for any package covered by the bill after (1) determining, following a hearing, that such packages currently in use made price per unit comparisons difficult and (2) industry had an opportunity to develop voluntary weight and quantity standards. Required that such a determination be published in the Federal Register.

Voluntary Procedures. Provided that within 60 days of the publication in the Federal Register of a determination that existing package weights and quantities were confusing, an affected industry could seek the establishment of voluntary weight and quantity standards through the existing voluntary standard procedures of the Department of Commerce. (The most recent form of these procedures was established in December 1965, although the Department's standardization program began in 1926.) The procedure was to work as follows:

(1) Any affected producer or distributor could request the Secretary of Commerce to participate in developing a voluntary product standard.

(2) The Secretary would notify the HEW Secretary or the FTC of the filing of a request and would establish a standards review committee composed of representatives of manufacturers, producers, distributors, consumers of the product and other appropriate general interest groups. Consumer representation could come from such groups as the President's Committee on Consumer Interests, the Consumer Advisory Council, the Food and Drug Administration, the Federal Trade Commission, and labor and consumer organizations.

(3) The committee would review proposed standards and by a three-fourths majority vote of its members recommend acceptance of a standard. The Department of Commerce would distribute the proposed standard to a list of acceptors representing producers, distributors, consumers, testing laboratories, state and federal agencies or any other individuals or groups upon request.

(4) If the Department of Commerce found a general concurrence in the standard with no "substantive objection" which it deemed "valid," the proposed standard would be published as a product standard by the Department. Any standard published under these procedures would be voluntary and by itself would have no mandatory or legally binding effect. Any person would be free to disregard the standard.

(5) HEW or FTC officials could establish "reasonable" federal weight and quantity standards if a voluntary agreement was not reached within 12 months after the filing with the Department of Commerce of a request for development of voluntary standards (the period could be extended to 18 months if progress toward a voluntary agreement was being made). Federal standards also could be established in situations where a voluntary product standard promulgated by the Secretary of Commerce was in effect, but was not being complied with.

Limitations on Federal Standards. Provided that a federal weight or quantity standard could not be different from a voluntary standard that either was in effect at the time the federal standards were set (intended to cover existing standards that were not being followed) or was put into effect within 12 to 18 months of an industry's request for development of voluntary standards.

Provided that a federal standard could not require a weight or measure of less than two ounces.

Provided that a federal standard could not prevent the use of a package of a size or capacity "customarily" used for related commodities of varying densities unless such a package was "likely to deceive consumers."

Provided that a federal standard could not prevent the continued use of returnable or reuseable glass

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beverage bottles in use on the effective date of the bill.

Required the HEW Secretary and the FTC, in establishing weights and quantities, to consider the effect of the proposed standards on the cost of packaging and the cost to the consumer; the availability of a "reasonable" range of package sizes for "consumer convenience"; the materials used in packaging the product; the weights and measures customarily used in packaging the product; and competition between containers of different types of packaging material.

Other Provisions. Provided that a food, drug, device or cosmetic which violated regulations issued under the bill would be deemed misbranded and thus subject to seizure under the Federal Food, Drug and Cosmetic Act. Provided that violations for other consumer commodities would constitute "unfair or deceptive acts or practices in commerce," which are illegal, and would be subject to "cease and desist" orders by the FTC.

Specified that there would be no criminal penalties for violations of regulations under the bill.

Provided that control over imported items would rest with the Secretary of the Treasury.

Exempted from the bill all packages in the process of orderly disposal from inventories.

Directed all Government authorities involved in establishing standards to transmit a report to Congress each January on their activities during the preceding year.

Stated the intent of Congress to supersede any state or local laws concerning labeling of net quantity which differ from the mandatory labeling standards of the bill.

Provided for judicial review of regulations issued by the HEW Secretary and the FTC.

Provided that the Act would become effective on the first day of the sixth month beginning after enactment. Permitted the HEW Secretary or the FTC to postpone the effective date an additional year for any commodity when such postponement would be in the public interest.

AMENDMENTS ACCEPTED

June 8 -- Frank J. Lausche (D Ohio) -- Add language to clarify that the requirement of ingredients on the package label would not apply to a commodity for which a definition or standard of identity had been established under the Federal Food, Drug and Cosmetic Act. Voice vote.

A.S. Mike Monroney (D Okla.) -- Provide that no regulation shall affect the orderly disposal of packages already in inventory on the effective date of the regulation. Voice.

June 9 -- Norris Cotton (R N.H.) -- Provide that authorities, in promulgating weights and quantities standards, give consideration to the cost to the consumer. Voice.

AMENDMENTS REJECTED

June 8 -- Norris Cotton (R N.H.) -- Delete provisions authorizing the establishment of federal weights and quantities standards for packages. Roll-call vote, 32-53.

June 9 -- Thruston B. Morton (R Ky.) -- Amend the Federal Trade Commission Act to permit manufacturers to fix the minimum retail prices of their nationally branded goods (better known as "fair trade" or "quality stabilization" legislation. Tabled, roll call, 51-29.

Cotton -- Extend coverage of the bill to all retail products enclosed in a package. Roll call, 7-69.

Everett McKinley Dirksen (R Ill.) -- Delete requirement that the net quantity appear in a separate and accurate statement on the principal display panel of the package. Voice vote.

Dirksen -- Delete requirements that the net quantity be expressed either in ounces or whole units of pounds, pints or quarts and appear in conspicuous and legible type. Voice.

Dirksen -- Delete provision prohibiting the use of qualifying words or phrases with the statement of net quantity. Voice.

Dirksen -- Delete requirement that the package label identify the commodity, manufacturer, and place of business. Voice.

Dirksen -- Delete provisions permitting the establishment of standards to define a package's size, such as "small," "medium," or "large," and the amount of net quantity that constitutes a serving of a commodity. Voice.

Roman L. Hruska (R Neb.) -- Delete provision permitting the producer of a commodity to request the Secretary of Commerce to participate in developing a voluntary product standard after the HEW Secretary or the FRC had published an intent to establish a weights and quantities standard for the producer's commodity. Voice.

Dirksen -- Delete provision regulating the use of "cents-off" advertising by the manufacturer of a commodity. Voice.

BACKGROUND -- The Senate Judiciary Antitrust and Monopoly Subcommittee held a series of hearings on federal efforts in the fair packaging and labeling field in 1961 and 1962. A bill (S 387) sponsored by Philip A. Hart (D Mich.) in the 88th Congress was approved in 1963 by the Subcommittee on a 5-3 vote, but was never reported by the full Judiciary Committee. *(1963 Almanac, p. 509; 1964 Almanac, p. 255, 889)*

Truth-in-packaging legislation was endorsed by both the Kennedy and Johnson Administrations, including a request for enactment by President Johnson in his March 21, 1966, consumer message to Congress. *(Weekly Report p. 680)*

S 985, introduced by Hart Feb. 3, 1965, differed from the earlier bill in two major respects. Instead of amending the 1914 Clayton Act as had S 387, and thus being technically classified as an antitrust bill, S 985 was described as prohibiting deceptive packaging and labeling in interstate commerce. As a result, the bill was not under the jurisdiction of the Judiciary Committee. The second change was the replacement of criminal sanctions under the earlier bill with civil penalties. The Department of Commerce in 1963 had objected to criminal enforcement; the Department of Health, Education, and Welfare in 1965 requested that the criminal penalties be put back into the bill.

In a 1965 debate on the Senate floor over which committee should have jurisdiction of the bill, Hart was the victor in contending that the bill should be sent to the Commerce Committee. Everett McKinley Dirksen (R Ill.), who said the bill should go to the Judiciary Committee because of its "antitrust characteristics" in dealing with standardization and nonprice competition, promised he would move to have it sent to the Judiciary Committee if and when it reached the Senate floor. *(1965 Weekly Report p. 889)*

During 10 days of hearings on S 985 in 1965, the Commerce Committee heard opposition from the packaging, food and grocery industries to standards for weight measures and packaging sizes, definitions of a "serving" of a food com-

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modity and information on the ingredients of a product. There also were objections to a provision prohibiting manufacturers from placing "cents-off" advertising on package labels.

S 985 was reported May 25, 1966, by the Senate Commerce Committee (S Rept 1186).

Majority Views. The report said S 985 reflected "the changing relationship between manufacturer and consumer which has marked the technological upheaval in food processing, packaging, and distribution of recent decades." The Committee said the number of "promotionally designed" packages had increased from 1,500 to 8,000 in the past 20 years.

The over-all objective of S 985, the report said, was to aid the consumer in making informed choices in the supermarket and in performing his "primary market function of rewarding the efficient producer." The Committee said it hoped to facilitate price comparisons--not to "superimpose its judgment as to the quality of competing products upon the judgment of the marketplace...."

Minority Views. The Committee's six Republicans supported the bill's labeling information provisions and certain discretionary provisions, but opposed federal regulation of the weights and quantities in which commodities could be packaged.

The minority said the weights and quantities provisions were a fuzzy, foolish, and futile attempt" to help the housewife, who did not need the Government to decide what size packages she could purchase. The standards, they continued, would "reduce competition, infringe on the consumer's freedom of choice, increase costs and prices and confer on federal officials virtually unrestrained power over critical aspects of trade."

(For major changes in S 985 adopted by the Committee, see Weekly Report p. 1216.)

HOUSE ACTION. The House did not consider fair packaging and labeling legislation during the 1961-65 period. Rep. Harley O. Staggers (D W. Va.), chairman of the Interstate and Foreign Commerce Committee, June 2, 1966, introduced a bill (HR 15440) nearly identical to the amended Senate Committee bill with the major exception that it permitted Government officials to prohibit the sale of packages if he decided that their size, shape or dimensional proportions were likely to deceive purchasers as to the actual net quantity of the contents.

CROP DISASTER DAMAGE

The House June 7 and the Senate June 9 by voice votes adopted the conference report (H Rept 1611) on a bill (HR 15151) to permit farmers to plant alternate crops on lands on which natural disasters had prevented the planting of cotton, wheat or feed grains and still remain eligible for federal farm support payments.

The Senate by a 24-59 roll-call vote rejected a motion by John J. Williams (R Del.) to delay floor consideration of the report until June 15 to give the Agriculture and Forestry Committee time to study the bill. The emergency bill originally was brought to the Senate floor without the Committee's consideration. *(For voting, see chart p. 1323.)*

The House agreed to the report without debate.

Senate-House conferees dropped a Williams amendment to limit to $10,000 the amount a farmer who was unable to plant his crop because of a natural disaster could receive in price support and acreage diversion payments and still plant an alternate crop.

Conferees said the amendment was killed because of Agriculture Department opposition. A letter from James C. Bagwell, the Department's general counsel, said the Williams amendment "may mean an end of the one-price cotton program enacted in the Food and Agriculture Act of 1965." Bagwell cited a "snapback" provision in the Act which he said would eliminate price support payments to farmers if the Williams amendment was accepted. The provision required that cotton prices be supported by loans and purchases rather than loans and payments if all producers were unable to receive the price support benefits to which they were entitled. Bagwell said Williams' amendment would limit the price support benefits some farmers could receive.

Bagwell told CQ the amendment would force a return to the system under which domestic cotton mills bought cotton from producers at a price higher than the world market price and then received Government subsidies which, in effect, reduced the cost of the cotton to near the world price level. The subsidies were established in 1964 under PL 88-297. The 1965 Act eliminated the subsidies and substituted direct payments to cotton producers to make up the difference between world prices and the desired level of farm income. This was to enable mills to buy the cotton directly at near the world price. *(1964 Almanac p. 98; 1965 Almanac p. 114; 1965 Weekly Report p. 2079)*

Williams during debate June 8 disputed Bagwell's interpretation of the amendment. He argued that the amendment applied only to farmers covered by HR 15151. He said, "This letter is just an attempt by the Administration to assure payments to big farmers." The letter was "one of the most fuzzy interpretations I have ever seen," Williams said. He said Bagwell "is the same man who wrote the fuzzy rulings that said Billie Sol Estes' activities were legal." Estes was convicted in 1963, on charges of mail fraud and conspiracy in connection with his operations in fertilizer, grain storage and cotton allotments.

BACKGROUND -- Supporters said HR 15151 was needed to help farmers who could not get crops in the ground because of heavy rains and floods in several southern states. They said the bill gave these farmers the right to plant alternate crops and receive acreage diversion and price support payments that was granted in 1965 to farmers whose crops were destroyed by disasters. The House May 24 passed HR 15151 by a voice vote. The Senate June 1 passed the bill with amendments by a 56-10 roll-call vote. *(Weekly Report p. 1141)*

The conference report (H Rept 1611) was filed June 7.

BANK HOLDING CORRECTION

In the June 10 Weekly Report account of Senate passage of the Bank Holding Company Act of 1956 amendments (HR 7371), CQ erroneously reported that the bill repealed exemptions from divestiture requirements for tax-exempt labor, agricultural and horticultural organizations. Those exemptions had been repealed in the House version of the bill, but were retained in the Senate version. *(Weekly Report p. 1216)*

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SENATE BEGINS HEARINGS ON CIVIL RIGHTS BILL

COMMITTEE -- Senate Judiciary, Subcommittee on Constitutional Rights.

BEGAN HEARINGS -- June 6 on an Administration bill (S 3296), the Civil Rights Act of 1966. The bill prohibited discrimination in the selection of federal and state juries, empowered the Attorney General to initiate suits to desegregate schools and public accommodations, banned discrimination in the sale or rental of housing and established criminal sanctions for threatening or injuring civil rights workers, Negroes and other persons exercising specified civil rights. *(For title-by-title details of provisions, see Weekly Report p. 921; for House hearings on HR 14765, a companion bill, see Weekly Report p. 1147.)*

TESTIMONY -- June 6 -- Subcommittee Chairman Sam J. Ervin Jr. (D N.C.) opened the hearings with a 90-minute analysis of the bill, attacking all provisions except Title I, which barred discrimination in the selection of federal juries. He said Title II, barring discrimination in the selection of state juries, was unnecessary because a 90-year-old law (18 U.S.C. 243) already made it a federal offense to discriminate in the selection of jurors. That law, he said, had been invoked only once, in the Supreme Court case of *Ex Parte Virginia* (1879).

Ervin said that Title III, empowering the Attorney General to bring desegregation suits, granted "new unbridled power" and "plenary power" to the Attorney General. He said that Title IV, the open occupany provision, was in its entirety "clearly beyond the authority of Congress." Real property, he said, did not move in interstate commerce -- except on house trailers or by acts of God. "I fail to see how we can rely upon tornados and hurricanes as channels of interstate commerce," he said. Likewise, he said, the 14th Amendment did not support the validity of the title; the argument that it did, he said, was "so ridiculous, so absolutely unsupportable by the language of the Amendment, that I have yet to hear someone seriously defend it." He said the provision would not result in integrated neighborhoods, adding that "the largest slums and ghettos of which we hear so much are in states with fair-housing laws, and no appreciable change in housing patterns ever followed their enactment."

Ervin called Title V, which protected civil rights workers, "a sad provision -- sad and bad." Its defect, he said, was that it punished private action in which state governments were not involved. That was contrary to the intent of the 14th Amendment, he said, which was directed at state action alone. He said the provision was the product of "the gratuitous and mistaken advisory opinion" of some Justices in the Supreme Court case of *U.S. v. Guest*, decided March 28, 1966, in which those Justices said the 14th Amendment empowered the Federal Government to punish private conspiracies to deprive persons of their rights. *(Weekly Report p. 716)*

Ervin described the amendment to S 3296 which he had introduced May 9 with Sen. J.W. Fulbright (D Ark.). The amendment limited the authority of federal agencies to withhold federal funds from state and local agencies or organizations which failed to comply with desegregation regulations as required by the Civil Rights Act of 1964. Ervin said that "whatever the outcome" of his amendment or of Title III of S 3296, he would "not object" to a new provision implementing "the Attorney General's constitutional authority to insure that no state officially enforces segregation and that no state is compelled by law to integrate its public facilities."

Attorney General Nicholas deB. Katzenbach defended the housing provisions of the bill as constitutional and workable. He said critics of the provision called it "forced housing," a term he found "ironic" because "forced housing is just what Title IV is designed to eliminate."

Katzenbach depicted the housing industry as heavily dependent on interstate commerce for its financing, acquisition of building materials, advertising and buyers. Discrimination was restricting commerce in the field, he said, and thus Congress had constitutional authority to prohibit that discrimination under its power to regulate interstate commerce. He said the extent to which governments at all levels were involved in regulating housing also brought Congress' power under the 14th Amendment into play, enabling it to bar practices which resulted in discrimination in the sale or rental of housing.

Katzenbach warned that discrimination in housing led to a buildup of tensions. "It leads a large class of citizens to despair -- a despair which has at times contributed to violent outbreaks against society itself," he added.

June 7 -- Ervin expressed his intent to introduce a constitutional amendment to replace Title V of the bill. He said such action was necessary because Congress lacked power under the 14th Amendment to punish acts of private citizens; the 14th Amendment applied only to action by state governments, he said.

Katzenbach disagreed that Congress lacked power to enact Title V, although he said he was delighted that Ervin felt it was necessary for Congress to legislate in that area. Katzenbach referred to the June 6 shooting of civil rights leader James H. Meredith near Hernando, Miss., and said it underscored the need for the antiterrorist provision. He said the shooting was "so absolutely -- I don't want to use insane in the literal sense -- so unpredictable with all those police around." He disclosed that at least 15 officers were "within yards" of Meredith when he was wounded. Several members of the Subcommittee also condemned the shooting, and Ervin referred to "cowardly crimes" in his opening remarks. *(For details on the shooting, see Weekly Report p. 1242.)*

June 8 -- Ervin continued his attack on the bill and expressed an intention to introduce an amendment to prohibit the withholding of federal medicare funds from hospitals failing to comply with federal desegregation guidelines. He charged that the Administration preferred to let a sick man die than be saved in a segregated hospital.

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Katzenbach denied that allegation and said the Administration would fight any effort to exempt medicare funds from the desegregation requirements of the Civil Rights Act of 1964. He asked why a Negro who had contributed to medicare through his Social Security payments should be denied a place in any hospital receiving funds under the program.

June 9 -- Sen. Paul H. Douglas (D Ill.) backed the bill and called for stronger provisions such as those embodied in another bill (S 2923) which he and 20 cosponsors had introduced Feb. 20. Although his bill did not include a housing provision, he said he supported enactment of that provision in S 3296. He said his bill added provisions for civil indemnification of persons injured while exercising civil rights, for removal of cases from state to federal courts where discriminatory systems of justice were shown to exist, for civil injunctive relief to protect in advance persons intending to exercise civil rights, and for extension of equal employment provisions of the Civil Rights Act of 1964 to employees of state and local governments, especially to those administering justice.

June 10 -- Sen. Philip A. Hart (D Mich.), sponsor of S 3296, cited a Defense Department study made at his request which showed that off-base housing for Negro military personnel was "the most stubborn and pervasive form of segregation and discrimination affecting" those personnel, in the words of the report. He said it was an anomaly to "call a man to serve in Viet Nam without regard to the color of his skin while being unwilling" to assure him equal treatment in obtaining housing at home.

Sen. John J. Sparkman (D Ala.), chairman of the Senate Banking and Currency Subcommittee on Housing and author of much federal housing legislation, called Title IV of the bill "an ill-advised attempt to subvert the right of states and the rights of people to the arbitrary commands of the Federal Government."

Mrs. Frankie M. Freeman, a member of the Civil Rights Commission, called the housing provision "essential to the fulfillment of other rights" and urged a provision empowering a federal agency to issue cease-and-desist orders against discrimination in housing instead of relying on suits by private persons or by the Attorney General.

ABUSIVE PHONE CALLS

COMMITTEE -- Senate Commerce, Communications Subcommittee.

COMPLETED HEARINGS -- June 14 on two related bills (S 2825, S 3072) to curb abusive, obscene and threatening telephone calls. *(For background, see Weekly Report p. 1146.)* Testimony:

June 14 -- Deputy Attorney General Ramsey Clark said state and local governments were the proper ones to curb abusive, threatening and obscene calls. Federal action might cause state and local agencies to slacken their efforts to curb the calls, most of which were intrastate, Clark said. He said the Federal Bureau of Investigation already is heavily burdened with other investigative duties such as civil rights, national defense, kidnapping and bank robberies. Its capacity to handle these tasks should not be hampered by imposing more duties unless there was a "clear showing of need," he said.

Subcommittee Chairman John O. Pastore (D R.I.), sponsor of S 2825, disagreed with Clark. He said he was concerned with the "vacuum" enforcement areas in which interstate calls originate in states which lack laws on abusive telephone calls. He said he did not want to usurp state or local authority.

BANKING INVESTIGATION

The House Banking and Currency Committee June 9 settled a dispute over the power of Chairman Wright Patman (D Texas) to issue subpenas to banking institutions requiring production of information as to their true ownership. The Committee adopted a compromise proposed by Rep. Charles L. Weltner (D Ga.) that invalidated 94 subpenas already issued but authorized Patman to continue his investigation and issue new subpenas.

On April 6, 1965, the Subcommittee on Domestic Finance had authorized a general investigation of the ownership of commercial banks. Since that time, Patman, chairman of the Subcommittee, had sent questionnaires to about 4,000 banks and other institutions and received about 1,700 replies. In a June 7 press release, Patman said that in 94 other cases, he had issued subpenas to obtain replies, and in about half of these cases the subpenas had been requested by the organizations involved, for their own protection. Patman said the Subcommittee May 26 adopted by a 7-4 vote a resolution which "reconfirmed" his authority to conduct the investigation and to issue subpenas.

The June 9 meeting was called at the request of 17 members (all 11 Republicans, six Democrats) of the 33-member Committee. Rep. Tom S. Gettys (D S.C.) charged that although the Subcommittee had authorized the general investigation, it had not authorized Patman to issue subpenas. Other Subcommittee members disagreed. Rep. Thomas L. Ashley (D Ohio), a member of the full Committee, said Patman was attempting to "blackjack" banks into producing information by issuing "invalid" subpenas.

CATV REGULATION

COMMITTEE -- House Interstate and Foreign Commerce.

ACTION -- June 9 ordered reported, by a vote of 20-11, an Administration-backed bill (HR 13286) extending the jurisdiction of the Federal Communications Commission (FCC) to community antenna television (CATV) systems.

Before approving the bill, the Committee adopted several amendments to the draft bill submitted by the FCC. One amendment added a provision barring FCC regulation of the fees CATV systems charged to their subscribers. Another prohibited CATV broadcasts of professional sports contests into cities where the sports leagues involved had granted exclusive rights to another television broadcaster or had exercised their authority to impose a television blackout. The Committee retained a provision of HR 13286 which barred CATV systems from originating their own programs except by special FCC permission.

HEARINGS COMPLETED -- The Committee April 7 completed hearings on HR 13286, a bill (HR 12914) denying the FCC authority to regulate television or radio reception, and related bills. *(Weekly Report p. 753)* Testimony:

April 5 -- Rep. Al Ullman (D Ore.) said "the great majority" of people in the 65,000 square miles of his district would not receive television broadcasts without CATV.

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Paul Rodgers, general counsel for the National Assn. of Railroad and Utilities Commissioners, said CATV systems should be regulated as public utilities. He urged a strengthening of language in HR 13286 to reserve "to the states, however they want to handle it, whether through municipalities or through the state commissions, the right to regulate the local aspects of CATV."

Vincent T. Wasilewski, president of the National Assn. of Broadcasters, supported FCC regulation of CATV. "At its ultimate," he said, "the issue could well be whether service will be limited to programs originated in a handful of large cities and distributed by wire to those who can afford to pay the charges, or whether as many communities as possible should have the opportunity of enjoying the advantages that derive from having local outlets that will be responsive to local needs."

Several witnesses, who supported FCC regulation of CATV, said the advertising market was reduced in communities that imported distant signals by CATV. This hampered development of new local stations, they said. "Proliferation of distant signals," said Wasilewski, "can only result in curtailed buying of broadcast advertising in local markets. Why buy Billings if the signals of Seattle also enter the market?" Marshall Pengra, who owned part interest in two television stations and one CATV system in Texas, said, "The real problem...is the threat that maximum CATV penetration in our home cities and adjacent coverage area could cause networks and national advertisers to either ask for reduced rates from us or eliminate us from the buying list."

Bruce Merrill, president of a firm that manufactured CATV equipment and principal stockholder in American Cable Television which operated CATV systems in 10 states, said the proliferation of CATV was in the public interest. He said CATV enabled the public to watch more channels and to get better reception. If regulation of CATV was necessary, Merrill said, it should be done by the Federal Government; he strongly opposed regulation of the industry by the states.

William Lowell Putnam, president of the Springfield Television Broadcasting Corp. which operated several ultra high frequency (UHF) television stations, supported FCC regulation of CATV. Putnam said some of his UHF stations had suffered financial losses because nearby CATV systems would duplicate his stations' programming. "UHF can be a very viable service, even in competition with VHF," he said, "but...UHF dies because of the activities of CATV. All it is is duplication."

April 7 -- Harold Essex, president of WSJS-TV in Winston-Salem, N.C., said the one-day nonduplication rule adopted by the FCC Feb. 15 could seriously hurt local stations. These stations, particularly UHF, depended on non-network syndicated programs and feature films for a large part of their programming, he said. "Under the FCC's rules," said Essex, "these very same syndicated programs and feature films can be brought in by a CATV system on the day before or the day after they appear on the local station. Thus, the hard-won exclusivity for which the local station has contracted and has paid a handsome sum is lost, and as a result audience and revenue are lost."

Jack G. McBride, spokesman for the National Assn. of Educational Broadcasters, said almost half of the 114 educational television (ETV) stations in the country were having their programs retransmitted by CATV. "Many are anticipating that CATV systems will inhibit the development of local educational television stations," he said. "The limitations of CATV in covering outlying rural areas and the ease with which inappropriate school programs designed for schools in other communities can be misused in the CATV community are both important considerations that illustrate the need for local ETV services." McBride supported HR 13286.

Paul A. Porter testified on behalf of International Telemeter, developer of a subscription (pay) television system. He opposed the provision of HR 13286 which prohibited CATV systems from originating its own programs, except in limited circumstances, with FCC permission and "without any additional charge to subscribers." Porter said elimination of this provision "would open up...some new competitive opportunities for those who want to risk their capital, who wish to make suitable arrangements with the existing CATV systems, to give the viewing public a choice."

Albert O. Hardy, director of the Radio, Television and Recording Division of the International Brotherhood of Electrical Workers, supported HR 13286.

FOREIGN AID

Differing versions of the Administration's foreign aid authorization bills have been tentatively approved by the Senate Foreign Relations and House Foreign Affairs Committees. The actions are subject to change when final votes are taken.

The version voted by the House Committee combined the military and economic aid authorizations in a single bill and, in most cases, authorized aid for more than one year. The Senate Committee rejected a move to combine the two aid programs and approved authorizations for only one year. President Johnson Feb. 1 asked Congress to handle economic and military aid as separate legislation, to authorize foreign aid over a five-year period and to authorize $2,468,962,000 for economic aid and $917,000,000 for military assistance (exclusive of Viet Nam) in fiscal 1967. *(Weekly Report p. 325)*

In 1965, the Administration's original foreign aid draft bills separated the economic and military programs. Chairman Thomas E. Morgan (D Pa.) of the House Foreign Affairs Committee, however, requested and received a new draft including both programs in one bill. Chairman J.W. Fulbright (D Ark.) of the Senate Foreign Relations Committee objected to the combined approach and held hearings solely on economic aid. The final version (PL 89-171) combined the programs. *(1965 Weekly Report p. 405, 1718; for 1966 Senate and House hearings, see Weekly Report p. 995, 964.)*

Senate Action

COMMITTEE -- Senate Foreign Relations.

ACTION -- June 9 ordered reported the economic aid authorization bill (S 2859) and June 16 approved the military assistance authorization bill (S 2861), both with amendments. The Committee June 16 defeated, by a vote of 7-11, a motion by Sen. Albert Gore (D Tenn.) to link the military and economic aid programs in a single bill. Chairman Fulbright said afterwards that he would bring up the bills separately on the floor.

Economic Aid. The Committee June 9, by a 17-1 vote, approved a one-year authorization (fiscal 1967) of

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$2,351,762,000 for economic aid -- a reduction of $117,-200,000 in the amount requested.

The reductions in the Administration's economic aid requests included $45.4 million from the $665.4 million sought for development loans; $21.3 million from the $231.3 million requested for technical cooperation; $47.2 million from the $747.2 million asked for supporting assistance; and $3.1 million from the $57.4 million requested for administrative expenses of the Agency for International Development. The other requests remained unchanged.

Amendments Accepted. Listed below are the major amendments adopted on S 2859, the sponsor (when known) and the votes on adoption (when known). *(For amendments adopted May 24 and 26, see Weekly Report p. 1150.)*

June 8 -- Set the interest rate on development loans at 3 percent, after a 10-year grace period. Frank Church (D Idaho) and Frank J. Lausche (D Ohio). 11-4. (This vote partially reversed the May 26 vote to set a rate of about 4.25 percent.)

Allow the President to increase the number of nations, previously limited by the Committee to 10, receiving supporting assistance if he found it to be in the national interest. John J. Sparkman (D Ala.). 10-7.

June 9 -- Require approval of the House Foreign Affairs and the Senate Foreign Relations Committees prior to any increases by the President in the total number of countries receiving aid under technical cooperation and development loan programs. Eugene J. McCarthy (D Minn.). 11-6.

Authorize use of technical assistance funds for birth control projects at the request of nations receiving aid. Fulbright.

Allow use of up to 5 percent of excess U.S.-owned local currencies for voluntary family planning programs in countries requesting them. Offered on behalf of Joseph D. Tydings (D Md.), who is not a member of the Committee.

Authorize the Council for Inter-American Progress, the governing body of the Alliance for Progress, to approve any Alliance projects.

Permit, but not require, use of up to $50 million in economic aid funds in multinational programs for Southeast Asian development.

Allow, but not require, channeling of 15 percent of Alliance for Progress funds through the Inter-American Bank.

Extend a requirement, scheduled to expire in September, that construction projects of $100 million or more be approved in advance by Congress.

Amendments Rejected. Also before the final vote on approval of the bill, the Committee rejected the following efforts to make major changes:

June 8 -- Table (kill) the May 26 amendment setting the interest rate on development loans at about 4.25 percent after a 10-year grace period. Joseph S. Clark (D Pa.). 6-11. (The Committee subsequently accepted a 3-percent rate. *See above.*)

Cut the President's contingency fund authorization by $20 million, to $50 million. Church. Voice.

Provide low-interest loans channeled through the proposed African Development Bank. Supplemental request submitted after the over-all aid bills were sent to Congress. Voice.

Suspend foreign aid until the United States shows a favorable balance of payments for two consecutive quarters and until U.S. spending in Viet Nam is brought below 1 percent of the U.S. gross national product (about $7.5 billion per year). Wayne Morse (D Ore.). 2-15.

Ban aid to any Latin American nation which spends more than 3.5 percent of its annual GNP on its military budget. Morse. Voice.

Extend authority for the development loan program and the Alliance for Progress for three years. Sparkman. 8-10.

June 9 -- Cut the aid total by an over-all 20 percent. Morse.

Cut $50 million from the supporting assistance authorization. Morse.

Military Assistance. The Committee June 16, by a 17-2 vote, approved a one-year authorization (fiscal 1967) of $892 million for military assistance -- a cut of $25 million in the amount requested.

Amendments Accepted. The Committee June 9-10 adopted the following amendments to S 2861:

June 9 -- Limit to 40 the number of countries that can receive military aid. Karl E. Mundt (R S.D.). Voice.

Specify that military aid did not imply a U.S. military commitment to a recipient nation.

Limit to $55 million per year both grants and Government sales of U.S. military articles to Latin America. Fulbright. 8-6.

June 10 -- Exempt military training programs from the 40-nation limit on those receiving military aid *(above)*. Mundt.

June 16 -- Cut the over-all total of military aid by $25 million. Church. 10-9.

Limit the military aid authorization to one year. 13-4.

Amendments Rejected. June 10 -- Limit U.S. military grants and sales to Africa to $25 million a year. Fulbright. 7-9.

June 16 -- Cut military aid by $150 million. Church. 8-11.

Cut Military aid by $100 million. Church. 8-11.

Authorize the military aid program for three years. Sparkman. 6-10.

Limit military aid to nations having an annual per capita income of $300 or more. Morse. 5-13.

House Action

COMMITTEE --House Foreign Affairs.

ACTION -- June 16 tentatively approved a single military and economic aid bill authorizing funds in most categories for two years (fiscal 1967 and 1968). Exceptions were authorization of funds for development loans and for the Alliance for Progress over five years, and authorization of funds for miscellaneous individual programs for only one year. A final vote on the bill was set for June 20.

Committee Chairman Morgan June 16 told reporters that he had become "convinced" that the combined bill was "the right approach."

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POLITICS DELAY STEPS TO CORRECT PAYMENTS DEFICIT

Stern measures seem necessary if the United States is to correct its chronic balance-of-payments deficit. Amid Administration promises that 1966 would be the year of payments equilibrium, a $2 billion shortfall is now in prospect.

Political considerations, however, presumably will keep the strongest medicine on the shelf at least through the 1966 Congressional elections. The only measures deemed likely to have a rapid payments impact are a tax increase (to dampen the economy and consequently cut back U.S. ability to import), mandatory controls on overseas investment, a cutback in worldwide military commitments and restrictions on overseas tourist travel. These are hardly regarded as vote getters.

Other options, considered far more likely for early use, include a further tightening of credit by the Federal Reserve Board (with the effect of cutting back overseas loans and to some extent, imports), credit preferences and tax incentives to exporters, an increase in the rate of the interest equalization tax on purchases by Americans of certain foreign securities and higher interest rates on money deposited by U.S. servicemen stationed overseas. At best, however, use of these measures would only hold the dike until stronger remedies could be invoked after the elections.

Background

REFERENCES -- 1960 Almanac p. 709; 1961 Almanac p. 338; 1962 Almanac p. 511; 1963 Almanac p. 580; 1964 Almanac p. 546; 1965 Almanac p. 865. See 1963 story for detailed description of the balance of payments.

Simply stated, the balance-of-payments deficit means that, in total, the United States spends more abroad for imports, travel, investments and government outlays than the rest of the world spends here. But behind this simple statement are countless transactions involving billions of dollars. The decisions of businesses, consumers, tourists, investors and governments -- both here and abroad -- profoundly affect the balance of payments. The balance of payments is a set of accounts economists have developed to help them understand the relationships between various national economies. The accounts group together transactions of a similar nature to make the payments balance as a whole easier to understand.

The concept which underlies the balance of payments, however, never varies: any transaction which gives foreigners dollars (an import of coffee, an investment in a foreign auto company or a gift to a relative abroad) is a negative item and contributes to a balance-of-payments deficit; any item which gives the United States claims on other countries (an export of chickens, the receipt of a dividend payment from a foreign corporation or a sale of a U.S. airline ticket to a foreigner) is a plus item and contributes to the balance-of-payments surplus.

Gold and the Payments Deficit

The balance-of-payments deficit is not just a number. It means that one way or another, the rest of the world has accumulated more claims against the United States than the United States has accumulated against the rest of the world. Eventually, the various central banks around the world (mostly in Europe) end up with the excess of dollars. This excess constitutes an addition to their reserves -- reserves they may need if they start running into their own balance-of-payments difficulties.

Since the U.S. stands ready to give any foreign central bank an ounce of gold for every $35 they have, they may exchange their excess dollars for gold. However, in recent years considerably less than half the U.S. balance-of-payments deficit has resulted in gold sales. For the rest, foreign monetary authorities would just as soon hold their reserves in dollars. So long as the U.S. stands ready to exchange them for gold, the dollars are literally as good as gold. Dollars have the added advantage of being a more convenient form of exchange and may earn some interest.

Occasionally, however, when foreign dollar-holders speculate that the United States might devalue its currency (raise the price of gold), they tend to "run" on the U.S. gold supply. Such a wave of speculation in 1965 caused U.S. gold reserves to decline by $1.7 billion -- $400 million more than the year's deficit. (Currently, foreign claims on the dollar total more than $29 billion. Gold on hand at the Treasury currently totals $13.6 billion.)

The United States experienced deficits in every year except for 1957, after 1949. *(See box, p. 3.)*

1965 Performance. The U.S. payments position in 1965 moved closer to equilibrium than in any year since the 1957 surplus. On a regular transactions basis, the deficit was down to $1.3 billion -- less than half the $2.8 billion shortfall recorded in 1964.

In considerable part, the improvement in the U.S. payments account was attributable to Administration efforts to keep dollars at home, repatriate liquid funds held abroad and attract foreign capital to the United States. The program was announced by President Johnson Feb. 10 in a special balance-of-payments message to Congress. *(For details see below)* The effects of the program more than offset a $1.9-billion decline in the U.S. trade surplus -- from $6.7 billion to $4.8 billion, a rise in the tourist deficit (excess of U.S. overseas tourist expenditures and costs of fares abroad over similar foreign expenditures on tourism in the United States) from $1.6 billion to $1.8 billion, an increase of approximately $1 billion in direct

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overseas investment and British liquidation of some $500 million in U.S. long-term assets.

The thrust of the Administration program was aimed at capital outflows, which rose by nearly half (48 percent) in 1964 to a record level of $6.4 billion (compared to $4.3 billion in 1963). To stem the flow of dollars abroad, the President called on businessmen and bankers to exercise "voluntary restraint" in overseas lending and investment operations. Widespread compliance, particularly by bankers, held 1965 outflows to a level estimated by the Commerce Department at $3.6 billion, about $2.9 billion below the actual performance of 1964.

In other key features of his program, the President proposed further reductions of U.S. Government expenditures abroad and outlined a legislative program which included proposals to extend and expand the 1964 Interest Equalization Tax, continue authority of U.S. banks to pay higher interest rates on time deposits (short-term investments) of foreign governments than on domestic deposits, reduce the amount of duty-free purchases permitted tourists returning from abroad, and provide anti-trust exemptions for bankers who cooperated to cut down on overseas dollar movements. (Each of these measures was enacted during the first session of the 89th Congress.)

Early in 1965, response to the President's program indicated that the deficit might be eliminated altogether within the year. Bank loans declined rapidly, large amounts of short-term capital were repatriated and a declining U.S. trade surplus improved with the February settlement of a crippling Atlantic and Gulf Coast dock strike. For the first quarter as a whole, the deficit fell to a seasonally adjusted $647 million, down substantially from the $1.5 billion deficit of fourth quarter 1964. These trends continued during the second quarter, bringing the U.S. account to a seasonally adjusted surplus of $267 million -- the first quarterly surplus since 1957.

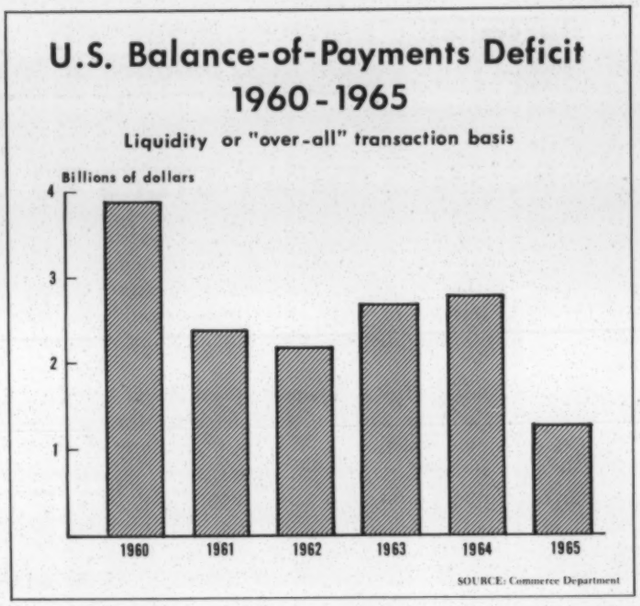
During the second half of the year, however, the balance turned adverse as repatriations were completed and exports leveled off. Seasonally adjusted deficits for the third and fourth quarters were, respectively, $531 million and $388 million -- levels that would have been far higher except for a further tightening of overseas bank lending and cuts of nearly 50 percent in direct overseas investments.

Original 1966 Plan

President Johnson's Cabinet Committee on Balance of Payments, a group made up of the Secretaries of the Treasury, Defense, Commerce, Agriculture and other high Administration officials, Dec. 6, 1965, announced an extension and tightening of the Administration's program for voluntary restraints on private capital outflows. The Committee said the objective of the program was to bring the U.S. balance of payments into equilibrium (a surplus or deficit no greater than $250 million) during 1966.

In its major features, the new program:

- Called on bankers to limit new overseas lending to a level only slightly above the 1965 ceiling (5 percent over the amount of such loans outstanding at the end of 1964.) The program was to permit a 1-percent increase for each quarter of the year, culminating in a fourth quarter ceiling of 9 percent.
- Urged an additional 400 corporations to join the 500 corporate participants in the voluntary program in an effort to increase net business contributions to balance-of-payments solvency by a total of $3.4 billion over 1965. The bulk of the total, some $2.4 billion, was to come from expanded exports, greater repatriations of foreign earnings, financing of foreign investment through borrowing abroad and the return of cash balances held overseas. The remaining $1 billion would come from cutbacks in direct investment outflows. To achieve these reductions, Commerce Secretary John T. Connor asked each of the corporations to limit its direct investment for the 1965-66 period to 90 percent of amounts invested during the period 1962-64. (This permitted over-all investment of 1965 and 1966 at an annual average rate about 35 percent greater than the annual average rate in the 1962-64 base period.)



First Quarter Results. Treasury Secretary Henry H. Fowler May 19 reported a $582 million payments deficit for the January-March quarter, an increase of $216 million over the last three months of 1965.

The first quarter deficit measured on a seasonally adjusted, "over-all" transactions basis, represented an annual rate of $2.3 billion -- $1 billion more than the final deficit recorded in 1965. Fowler attributed the worsening U.S. payments position largely to the Viet Nam war, which he said enlarged the deficit by an annual minimum figure of $700 million.

Fowler said the United States still was not abandoning its objective of balance-of-payments equilibrium by the end of 1966. But "it may be that we will have to settle for an interim objective of equilibrium exclusive of the cost of Viet Nam," he said.

(The first quarter payments deficit on an "official settlements" basis was $262 million for an annual rate of approximately $1 billion. The official settlements method, first used by the Commerce Department in 1965, differed from the conventional "over-all" transactions formula in that it did not measure changes in private foreign dollar holdings.)

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Timing of New Measures

Connor and Fowler, the two Administration officials most concerned with the payments problem, have split in recent weeks on what to do to combat the deficit. Fowler has taken a "go-slow" approach, while Connor's remarks might be interpreted as a call for rapid action.

Fowler. In a major policy speech before the international conference of the American Bankers Assn. at Granada, Spain, Fowler May 27 said a quick rebalancing of the U.S. payments account would dry up international liquidity, seriously hurting "the economies, the aspirations and, indeed, the safety of all the nations of the free world."

Fowler said he lacked the "gift of prophecy" to predict when the U.S. deficit would finally be stemmed. A "more important question," he said, was not *when* the problem would be solved but *how*. Questioned on the U.S. plan of action, Fowler said the main effort would be centered on export stimulation. By implication, his statement ruled out the more controversial measures, such as direct controls on overseas investment or tourist restrictions.

At a news conference following his speech, Fowler said it would not be difficult to end the deficit after the Viet Nam war, but that there would be scant possibility of major improvement so long as the United States was engaged at the present level of hostilities.

Connor. In an open deviation from Fowler's remarks of three days before, Connor May 30 told U.S. labor editors the Administration was apprehensive that "as we pull the (balance-of-payments) figures together in the fall of this year...we will have to face up to some pretty difficult policy choices in deciding upon recommendations to the President."

Noting that voluntary controls on overseas loans and investments could be effective "only up to a certain point," Connor expressed strong concern over what happens when the program "sort of goes over the hill...."

Calling the Administration's 3.2-percent wage-price guideposts "far from satisfactory," Connor indicated that more stringent measures might be in the offing. "There are some industries," he said, "in which there are pressures at the present time that are very difficult to reach by voluntary programs on behalf of government. We are doing the best we can. We recognize that the guideposts are imperfect measurements at best in many specific situations, but the number of tools that are available to the Government at the moment are quite limited."

International Payments Code

A deputy finance minister-level subcommittee of the "Group of Ten" key industrial powers met in Washington the week of June 6 to write a first draft of a proposed code on international monetary reform. While public objectives of the group had been centered on establishment of a new international reserve currency unit to replace the dollar and the British pound, the new code reportedly sought a system of self-imposed adjustments for countries whose deficit became too large or lasted too long.

Adjustments under the code were said to provide a flexible approach depending upon the posture of a deficit nation's domestic economy. When a nation's economic growth was lagging and its unemployment rate was high, it would be allowed to take relatively painless remedies such as imposing an interest equalization tax on domestic purchasers of foreign securities. But if its economy was booming, the nation would be expected to curb its deficit by increasing taxes and tightening credit -- measures designed to hold down prices and ability to import while stimulating businesses to increase their exports to areas of higher return.

The proposed new code, while viewed as a decisive first step to meaningful reform, would not make it mandatory for a nation to follow its provisions. Rather, as one U.S.

Balance-of-Payments Figures

The United States had a balance-of-payments deficit in every year after 1949 except for 1957 when a small surplus was achieved.

(in millions)

Year	Balance on: Overall Transactions Basis[1]	Official Settlements Basis[2]	Change in U.S. Gold Stock
1946	$+1,261		$+ 623
1947	+4,567		+2,162
1948	+1,005		+1,530
1949	+ 175		+ 164
1950	−3,580		−1,743
1951	− 305		+ 53
1952	−1,046		+ 379
1953	−2,152		−1,161
1954	−1,550		− 298
1955	−1,145		− 41
1956	− 935		+ 306
1957	+ 520		+ 798
1958	−3,529		−2,275
1959	−3,743		−1,075
1960	−3,881	$−3,592	−1,702
1961	−2,370	−1,287	− 857
1962	−2,203	−2,241	− 890
1963	−2,670	−1,990	− 461
1964	−2,798	−1,256	− 125
1965	−1,301	−1,299	−1,665

[1]The balance in this column, on the "over-all" or liquidity accounting basis, is measured by changes in U.S. gold and other official reserve assets and in U.S. dollars held by all foreigners.

In all CQ Almanacs prior to 1965, similar figures for "regular international transactions" differ slightly from those above for the years 1959-64. This resulted from differing treatment of "special Government transactions"; beginning in 1965, this information was not provided separately in the totals prepared by the Commerce Department. (See box, 1964 Almanac p. 547)

[2]The official settlements balance, first used by the Commerce Department in presenting 1965 figures, measures the payments balance by changes in U.S. reserve assets (gold and others) and in dollars held by official foreign agencies. It differs from the "over-all" measurement primarily by excluding changes in dollar holdings by private foreign parties. The Commerce Department had not prepared figures for the official settlements basis for years before 1960.

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official put it, the proposal amounted to a purely voluntary "code of good behavior." Still to be submitted to finance ministers of the member nations, the code was expected to receive overwhelming (including U.S.) approval at a conference scheduled for the Hague, July 26-27.

Further Reform. An Administration official concerned with the payments problem told Congressional Quarterly June 10 that, following adoption of the new monetary code, dollar-holding foreign nations probably would refuse to negotiate for further reform until the United States settled its payments problem. "I think these nations really mean business," he said. "You're going to see some real pressures put on us to get this thing settled once and for all."

Other Developments

Research Organization Proposals. The International Economic Policy Assn., a private research group whose membership includes 20 large U.S. corporations, June 13 recommended a balance-of-payments program designed to improve the U.S. payments position by "more than $3 billion" a year if fully implemented. Highlights of the IEPA plan, which contained a total of 33 specific recommendations, included redeployment of U.S. forces overseas to host nations cooperating in the effort to end the U.S. deficit, tax incentives for exports, a more selective allocation of foreign aid (to countries "determined to help themselves") and U.S. Government subsidies to foreign tourists traveling to the United States.

Symington Statement. Sen. Stuart Symington (D Mo.), a member of the Senate Armed Services and Foreign Relations Committees, June 8 called for a reassessment of U.S. foreign aid, along with overseas military expenditures. Citing figures presented before the House Foreign Affairs Committee by Gen. Lyman Lemnitzer, Supreme Commander of North Atlantic Treaty Organization (NATO) forces, Symington said that U.S. defense spending abroad was currently more than twice as large, in relation to gross national product, as that of "most of our NATO allies." While the United States continued to spend $1.5 billion a year in Europe for military presence alone, he added, "...it continues to lose a substantial portion of its gold to that same Europe."

NATO Commitment, German Arms Purchases. Defense Secretary Robert S. McNamara Juna 11 told a news conference that the United States did not "anticipate withdrawing a major unit" from NATO but reiterated his long-standing position that West Germany must meet its pledges to offset the cost of the U.S. commitment there. The West German Government had sought to shift part of its $700 million obligation for U.S. arms purchases in 1966 to space equipment. News reports had indicated that the State Department was amenable to the diversion of funds, but Secretary of State Dean Rusk, also a participant in the news conference, gave no indication that his views differed from those of McNamara.

Military Savings. Assistant Defense Secretary Thomas D. Morris called for enactment of an administration bill (HR 14875) to increase from 4 to 10 percent the amount of interest paid members of the Armed Services overseas on savings they deposit with the Government. The bill, first of the Administration's 1966 balance-of-payments legislative proposals, was designed to encourage overseas servicemen to save their dollars rather than spending them abroad, which they currently do at the rate of $1 billion a year. Morris, testifying before a House Armed Services subcommittee headed by Rep. F. Edward Hebert (D La.), said the current overseas savings program had fallen into "virtual disuse" because its 4-percent rate could not compete with the higher rates offered by regular savings institutions (currently 4 percent for ordinary deposits with commercial banks and 4.5 percent for deposits with savings and loan associations).

Trade Balance Declines. The Commerce Department May 24 announced that a 10-percent drop in exports and a 3-percent rise in imports had reduced the favorable U.S. trade balance to a seasonally adjusted annual rate of $4.1 billion during April. The April reduction was a decline of $300 million from the annual rate recorded in March and $700 million from the actual level recorded in 1965. The trade balance -- excess of exports over imports -- is an important *plus* in the balance of payments. U.S. officials had contemplated a favorable trade balance of $6 billion as part of their projections of balance-of-payments equilibrium for 1966.

Direct Investment Curbed. Commerce Secretary Connor June 14 announced that direct overseas investment by U.S. corporations had declined to a seasonally adjusted $630 million for the first quarter of 1966 -- down $101 million from the preceding quarter and $1.2 billion from the same quarter of the previous year. The first quarter outflow, which represented an annual rate of $2.5 billion, was almost in line with Connor's 1966 target level of $2.4 billion.

April Gold Loss. The Federal Reserve Board May 30 reported that the United States lost $70 million in gold during the month of April following a $73 million loss in March. Combined with a small gain of $5 million for the first two months of the year, the March and April transactions brought the year's loss thus far to $138 million. Largest purchaser of gold during the period was France, whose monthly purchases ranged from $32 million to $68 million. (Large French gold purchases, which began in January 1965, were a major part of French efforts to force the United States to correct its payments problem.)

Public Laws

(For previous Public Laws, see Weekly Report p. 824)

PL 89-414 (S 1924) -- Prohibit a part-time referee from acting as trustee or receiver in any proceeding under the Bankruptcy Act. TYDINGS (D Md.) -- 5/10/65 -- Senate Judiciary reported Sept. 15, 1965 (S Rept 744). Senate passed Sept. 17. House Judicary reported Feb. 3, 1966 (H Rept 1252). House passed, amended, Feb. 21. Senate agreed to House amendments April 28. President signed May 10.

PL 89-415 (HR 13365), PL 89-416 (HR 13367), PL 89-417 (HR 13368), PL 89-418 (HR 13371), PL 89-419 (HR 13373) -- Authorize disposal of metallurgical grade chromite, flourspar, bismuth, phlogopite mica, and muscovite mica from the national stockpile. PHILBIN (D Mass.) -- 3/7/66 -- House Armed Services reported March 30, 1966 (H Rept 1392, 1393, 1394, 1396 and 1397). House passed April 4. Senate Armed Services reported May 5 (S Rept 1143, 1144, 1145, 1146, and 1147). Senate passed May 9. President signed May 11.

PL 89-420 (HR 13578), PL 89-421 (HR 13579), PL 89-422 (HR 13580) -- Authorize disposal of rhodium, thorium, and amosite asbestos from the national stockpile. PHILBIN (D Mass.) -- 3/14/66 -- House Armed Services reported March 30, 1966 (H Rept 1398, 1399, and 1400). House passed April 4. Senate Armed Services reported May 5 (S Rept 1148, 1149, and 1150). Senate passed May 9. President signed May 11.

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POPULATION-BASED APPORTIONMENT REACHES 46 STATES

The shift to population-based apportionment in the state legislatures of the United States has almost been completed, a Congressional Quarterly survey shows. While minor adjustments will still be required in a number of states, the latest count shows that 46 of the 50 legislatures will enter the 1966-67 elections with districts based substantially on the population principle. Full compliance with the Supreme Court's "one-man, one-vote" standard is likely in the remaining four states, Louisiana, Mississippi, Hawaii and Maine, within the next two years.

The move toward population-based apportionment began immediately after the Supreme Court's landmark March 1962 decision in *Baker v. Carr*, and accelerated rapidly following the 1964 *Reynolds v. Sims* decision that made it clear that not just one but both houses of each legislature must meet the "one-man, one-vote" test. During the period from Jan. 1, 1965, to June 1, 1966, 39 states took major action to eliminate population inequalities in their legislative districts.

The process of achieving a "one-man, one-vote" basis of apportionment, however, has not been without political battles of proportions never before witnessed at the state legislature level. In virtually every one of the states where reapportionment action occurred, there was a continuing but losing struggle by rural elements to retain a controlling voice in the legislatures. Prodded by the courts, however, most states have moved gradually over the past four years to change representation to reflect the new urban-suburban majorities. Moreover, where the legislatures were hesitant or refused to act, the courts directly intervened to speed legislative action and even to hand down reapportionment plans of their own. Such action is likely to continue over the next few years because several states, despite substantial population-based apportionment, still have a number of districts varying by 15 percent or more from the average district population.

Efforts to resist the trend to population-based apportionments have not only failed at the state level but also at the national level. An effort to salvage the "Dirksen Amendment" -- so called after the amendment's sponsor, Senate Minority Leader Everett McKinley Dirksen (R Ill.) -- failed in the Senate April 20, 1966, by a 55-38 roll-call vote. The proposed constitutional amendment, which would have modified the Supreme Court's "one-man, one-vote" decision by permitting the states to apportion one legislative chamber on a nonpopulation basis, required a two-thirds majority (62 votes) for final approval. *(Weekly Report p. 827)*

Summary of Action

During the period Jan. 1, 1965, to June 1, 1966, 39 states took action -- either legislative, judicial or otherwise -- to reapportion one or both of their legislative chambers on a "one-man, one-vote" basis for the next state legislative elections. They were as follows:

References

State-by-State Legislative Apportionment Roundup: *1965 Weekly Report p. 189; 1963 Weekly Report p. 2258.*

Baker v. Carr: Analysis of decision, *1962 Almanac p. 1054.*

Reynolds v. Sims and Related Decisions: Analysis and excerpts, *1964 Almanac p. 384.*

Other References: "Legislative Apportionment: The Background and Current Status of Developments in Each of the Fifty States," by Johnny H. Killian, Library of Congress, Legislative Reference Service, January, March and April 1966. (Not for general distribution.)

Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Maryland, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Washington and Wyoming.

In the 11 remaining states, either one or both of the legislative chambers had been reapportioned in previous years: Oregon in 1961; Kentucky, Louisiana, Massachusetts and Mississippi in 1963; and Delaware, Maine, Michigan, Virginia, West Virginia and Wisconsin in 1964.

While some form of reapportionment action has occurred in each of the 50 states, further action is still required in several states before they can be considered validly apportioned in line with the Supreme Court's strict population standard. For example, court challenges are still pending against reapportionment plans in Delaware, Florida, Minnesota, Pennsylvania and New Mexico. Furthermore, the legislatures in Louisiana and Mississippi are required to reapportion again for the 1966 elections or face the threat of imposition of a court-drawn plan. As of June 1, the most serious deviations from straight population-based apportionment appeared to exist in Louisiana, Mississippi, Hawaii and Maine. *(See electoral percentages in chart on p. 4, 5.)*

Many of the states are required to reapportion again in 1967 or 1968 either because their current plans were approved only on a temporary basis for the 1966 elections or because new state constitutional amendments setting population guidelines for reapportionment are expected to be approved in the 1966 elections. States falling in this category are: Arizona, Georgia, Hawaii, Iowa, Kansas, Maine, Massachusetts, Montana, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas and Wisconsin.

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OTHER BREAKDOWNS

States Where Court Reapportioned. Due to the inability of the legislatures to do the job themselves, either state or federal courts have reapportioned one or both legislative chambers in the following 12 states: Alabama, Arizona, Illinois, Michigan, Montana, New Mexico, New York, North Dakota, Oklahoma, Pennsylvania, Wisconsin and Wyoming.

Supreme Court Involvement. The Supreme Court has played a significant role in the reapportionment action in the following 21 states since 1962 by either upholding or disapproving lower court apportionment decisions: Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Iowa, Maryland, Michigan, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Virginia, Washington and Wyoming.

States With Multimember Districts. Apportionment plans in 33 states include a number of legislative districts in which two or more members are elected on an at-large basis. The states are: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Louisiana, Maine, Minnesota, Mississippi, Montana, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Oregon, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, West Virginia and Wyoming. *(See below.)*

Population Deviation Above 15 Percent. The following 32 states are governed by apportionment plans which have one or more districts deviating in population from the state district average by more than 15 percent and which would appear particularly susceptible to challenge on the basis of continuing population inequalities: Alabama, Alaska, Arizona, Colorado, Connecticut, Florida, Georgia, Iowa, Kentucky, Louisiana, Maine, Maryland, Minnesota, Mississippi, Montana, Nevada, New Hampshire, New Jersey, New Mexico, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin and Wyoming. The U.S. Supreme Court has not defined an exact maximum population deviation which would be permissible, but many lower courts and legislatures have used the 15-percent figure as a rough guideline.

The following five states may also have districts deviating by more than 15 percent (full information is not available): Hawaii, Idaho, Kansas, Massachusetts and Rhode Island.

Multimember District Issue

One of the central issues in the reapportionment disputes in several states involved the creation of multimember districts, particularly in urban areas. At the crux of the controversy over the creation of such districts was the question of whether the at-large election of several legislators from a single district would cancel out representation for political, racial or economic minorities that might otherwise be gained for these groups through a single-member district apportionment. At-large elections covering part or all of large counties or cities were frequently alleged to discriminate against substantial groups of Negroes or Republicans in those areas.

The Supreme Court set a general rule applying to such districts in its 1965 Georgia case, *Fortson v. Dorsey*, which was subsequently cited in its 1966 Hawaii case. In both instances, the Supreme Court reversed lower federal court decisions that had disapproved the use of multimember districts. The Supreme Court ruled that multimember districts would be held unconstitutional only after proof that they were "designed to or would operate to minimize or cancel out the voting strength of racial or political elements of the voting population."

The allegations of minority groups that multimember districts discriminate against them promise to be a continuing issue of major importance as the states strive toward constitutionally acceptable apportionments. Two test cases in the spring of 1966 produced diametrically opposite results. In Iowa, the state Supreme Court directed the 1967 Legislature to subdistrict large counties because individual districts are necessary to extend "equal protection of the laws" to all citizens under both the state and federal constitutions. The decision said that a citizen who could vote for several state representatives "has a much greater opportunity to find legislators to espouse his cause" than one who resides in a single member district. Politically, the Iowa decision was expected to give Republicans greater chances of winning seats in the multimember counties. In Tennessee, however, the state Supreme Court relied on a section of the state constitution to invalidate a Senate apportionment plan which subdistricted four urban counties. The ruling was construed as a blow to Republican chances of extending GOP control in the urban areas and a blow to the hopes of Negroes for electing members of their race to the Senate. In Colorado in November 1966, voters will probably be given the chance to vote on the multi-versus-single member district issue. Advocates of subdistricting are seeking to put a proposal on the ballot to require subdistricting in Denver and other large cities. *(For details of cases, see state rundown below.)*

Definitions

Electoral Percentage. This is the percentage of each state's population which is theoretically able to elect a majority of each chamber of the state legislature.

'Floterial' Districts. The term "floterial" district has different interpretations among the states. Generally however, the term is used when two or more counties share a representative. The composite counties in the floterial district generally alternate in nominating the Representative, but he is usually elected from the whole district. This is meant to prevent one county from always dominating the district.

State-by-State Roundup

ALABAMA -- A three-judge federal court Oct. 4, 1965, approved an Alabama Legislature plan reapportioning the state Senate on a more equitable population basis. But the court imposed its own plan in place of a separate Legislature measure reapportioning the state House. The Senate plan and original House plan were passed by a

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special session of the all-white, Democratic-controlled Legislature Sept. 23 and signed into law by Gov. George C. Wallace (D) Sept. 24.

Under the final plans, the 35-member Senate and 106-member House remain the same size, but the balance of power in both chambers was shifted from the southern rural and agricultural part of the state to the more heavily populated northern industrial section. The number of Senators and Representatives representing Jefferson County (Birmingham), for example, was increased from one to seven and from 17 to 20, respectively. All are to be elected on an at-large basis. Many of the other Senate and House districts are also multimember as well as multicounty. In all instances, however, district lines follow county boundaries. The plans also created several districts in both chambers that deviated by more than 15 percent from the average size district and raised the electoral percentage from 43 to 47.7 in the House and from 27.6 to 47.8 in the Senate. Political observers estimated that under the new plans, Negroes would have good chances of capturing several seats in both chambers.

In rejecting the Legislature's original House plan, which had been challenged on the grounds of population inequality and racial discrimination, the court said that: (1) it could find no "rational basis" for the large number of districts that deviated by more than 15 percent in population and (2) although the plan was an attempt by the Legislature at a population-based formula, it nevertheless constituted "invidious discrimination," having been drafted "for the sole purpose of preventing the election" of Negro House members from certain districts in the state's so-called "Black Belt" region. The plan substituted by the court corrected these deficiencies in the Legislature's proposal.

Background -- The Alabama Legislature had not been reapportioned since 1901. Choosing from several plans enacted by the Legislature in 1962, a three-judge federal court approved a "temporary and provisional" reapportionment governing the 1962 elections (no elections were held in 1964). These plans, however, were found unconstitutional by the U.S. Supreme Court June 15, 1964, in its landmark *Reynolds v. Sims* decision. Subsequently, the Legislature failed in several regular and special sessions to reapportion itself, thus causing the federal panel July 27, 1965, to reassume jurisdiction over the issue and forcing the Legislature to act in the fall 1965 special session.

ALASKA -- The Alaska Supreme Court May 20, 1966, reversed a lower court decision which had held that a plan reapportioning the state Senate and handed down by proclamation of Gov. William A. Egan (D) Sept. 3, 1965, was in violation of the state constitution. The lower court had held that under the state constitution the Governor had only the authority to reapportion the state House, not the Senate, by proclamation. The state Supreme Court ruled that the constitution "implied" authority for the Governor to reapportion the Senate by proclamation. The 40-member House, which was reapportioned on a population basis by gubernatorial proclamation in 1961, was not affected by Egan's 1965 order or by the courts' decisions.

Under the new Senate plan, the 20-member upper chamber remained the same size, but urban areas gained in representation at the expense of the less populated western and southeastern regions of the state. For example, the number of Senators representing Anchorage increased from three to seven and the number representing Fairbanks increased from three to four. Senators in both of these metropolitan election districts (the state does not have counties) will run at large, while the remainder of the Senate will run from single-member districts. Several Senators represent districts deviating in population by more than 15 percent. The plan raised the electoral percentage in the Senate from 35.4 to approximately 50. (The current electoral percentage in the House is 47.8.)

Background -- Alaska's 1956 constitution gives the Governor the authority to reapportion the House after each decennial census but is silent on the matter of Senate reapportionment, since the framers of the Constitution never envisioned the need to revise the upper chamber's geography-based districts. In 1964, however, Egan convened the state Advisory Board for the purposes of drafting new Senate districts in line with the U.S. Supreme Court's "one-man, one-vote" decision. Egan's Sept. 3, 1965, order endorsed the Board's reapportionment recommendations. Subsequently, 15 members of the Senate, asserting that Egan's proclamation was unconstitutional, filed suit in state court asking that the proclamation be set aside and that Senate reapportionment be accomplished by a constitutional amendment drafted by either the Legislature or a Constitutional Convention, subject to voter approval.

ARIZONA -- A three-judge federal court Feb. 2, 1966, reapportioned both chambers of the Arizona Legislature on a straight population basis after a special session of the Legislature had failed to produce an acceptable plan of its own. The court plan, which increased Republican chances of registering gains in the Democratic-controlled Legislature, was labeled "temporary and provisional," allowing the Legislature to devise a different apportionment after the 1966 elections.

Under the court's plan, the state Senate was increased from 28 to 30 members and the state House was reduced from 80 to 60 members. The plan created eight single- and multicounty population-based House and Senate districts (in place of the existing 14 single-county districts) and provided for a 2-to-1 ratio for the number of Representatives and Senators elected in each district. The most significant shift in representation came for the state's two most populous counties -- Maricopa (Phoenix) and Pima (Tucson) -- which, while continuing to comprise single districts, both gained in Senators but lost in Representatives. The two counties were also directed to subdistrict: Maricopa into 15 subdistricts and Pima into six. Representatives and Senators in the state's six remaining districts were directed to run at large. Only one district deviated by more than 15 percent. The electoral percentage for the House was raised from 45.8 to 49.1 and for the Senate from 12.8 to 49.1.

Background -- Arizona's current apportionment, governed by guidelines enacted in 1953, was challenged in 1964, but the federal court stayed proceedings in the case until May 20, 1965 -- 30 days after the end of the Legislature's regular 1965 session. Following failure of the regular session to take acceptable action, however, the court permitted the Legislature to hold a special session in the fall. The court's final reapportionment action came after the Legislature failed to resolve the issue during a Sept. 13-Oct. 9 special session. The court's plan over-

(Text continued on p. 1290; see table on next two pages.)

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STATE REAPPORTIONMENT, ELECTORAL PERCENTAGES, 1966 ELECTIONS

STATE	DATE LATEST REAPPORTIONMENT		ELECTORAL PERCENTAGE*				REAPPORTIONING BODY**	PARTY STRENGTHS				1966 ELECTION
			HOUSE		SENATE			UPPER HOUSE		LOWER HOUSE		
	HOUSE	SENATE	Old	New	Old	New		Dem.	Rep.	Dem.	Rep.	
Alabama	1965	1965	43.0	47.7	27.6	47.8	Court, Legislature	35	0	103	3	Entire Legislature
Alaska	1961	1965	n.a.	47.8	35.4	51.0	Commission	17	3	30	10	One-half Upper House Entire Lower House
Arizona	1966	1966	45.8	49.1	12.8	49.1	Court	26	2	45	35	Entire Legislature
Arkansas	1965	1965	33.3	49.4	43.8	49.2	Commission	35	0	100	1	Entire Legislature
								1 Vacancy		3 Vacancies		
California	1965	1965	44.7	48.5	10.7	48.9	Legislature	25	13	49	31	Entire Legislature
								2 Vacancies				
Colorado	1965	1965	45.3	46.8	46.9	47.5	Legislature	15	20	42	23	One-half Upper House Entire Lower House
Connecticut	1965	1965	11.9	43.8	31.9	47.9	Legislature	23	13	111	183	Entire Legislature
Delaware	1964	1964	18.5	n.a.	22.0	n.a.	Legislature	13	5	30	5	One-half Upper House Entire Lower House
Florida	1966	1966	26.9	47.8	15.2	48.4	Legislature	41	2	105	7	Entire State Legislature
Georgia	1965	1962	22.5	42.3	21.4	48.2	Legislature	44	9	198	7	Entire Legislature
Hawaii	1959	1965	n.a.	38.4	18.1	n.a.	Legislature	16	9	40	11	Entire Legislature
Idaho	1966	1966	32.7	n.a.	16.6	n.a.	Legislature	19	25	37	41	Entire Legislature
Illinois	1965	1965	28.7	49.1	39.9	50.4	Commission, court	25	33	118	59	Entire Legislature
								2 Vacancies		3 Vacancies		
Indiana	1965	1965	34.8	48.7	40.4	49.5	Legislature	35	15	75	22	Entire Legislature
Iowa	1965	1965	26.9	44.8	35.2	45.1	Legislature			3 Vacancies		
Kansas	1966	1964	19.4	48.7	26.8	50.1	Legislature	34	25	101	23	One-half Upper House Entire Lower House
Kentucky	1963	1963	34.1	44.8	42.0	46.6	Legislature	13	27	44	81	Entire Lower House
Louisiana	1963	1921	n.a.	33.1	n.a.	33.0	Legislature	25	13	64	36	None
Maine	1964	1961	39.7	40.0	n.a.	40.8	Legislature	39	0	103	2	None
Maryland	1965	1965	35.6	50.5	14.1	47.8	Legislature	29	5	81	70	Entire Legislature
Massachusetts	1963	1961	n.a.	45.5	n.a.	50.4	Legislature	22	7	117	25	Entire State Legislature
								27	13	167	69	Entire Legislature
										1 Ind.		
										3 Vacancies		
Michigan	1964	1964	44.0	52.0	29.0	52.0	Court	23	15	73	37	Entire Legislature
Minnesota	1966	1966	34.5	47.2	40.1	48.1	Legislature	24	43	55	79	Entire Legislature
								Technically--a non-partisan Legislature				
Mississippi	1963	1963	29.1	41.2	34.6	37.4	Legislature	51	1	120	2	None
Missouri	1966	1965	20.3	49.8	47.7	52.0	Commission	22	12	123	40	One-half Upper House Entire Lower House
Montana	1965	1965	36.6	49.0	16.1	46.9	Court	32	24	56	38	Entire Legislature
Nebraska†	1965		44.0	49.3			Legislature	Unicameral Legislature				Entire Legislature
								49 Non-Partisan Seats				
Nevada	1965	1965	29.1	46.8	8.0	49.7	Legislature	8	8	25	12	Entire Legislature
								1 Other				
New Hampshire	1965	1965	44.0	45.2	43.8	52.5	Legislature	10	14	176	224	Entire Legislature

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STATE	DATE LATEST REAPPORTIONMENT		ELECTORAL PERCENTAGE*				REAPPORTIONING BODY**	PARTY STRENGTHS				1966 ELECTION
			HOUSE		SENATE			UPPER HOUSE		LOWER HOUSE		
	HOUSE	SENATE	Old	New	Old	New		Dem.	Rep.	Dem.	Rep.	
New Jersey	1961	1965	n.a.	46.5	19.0	47.0	Legislature	19	10	41	19	None
New Mexico	1965	1966	27.0	47.4	14.0	45.8	Legislature, court	28	4	59	18	15 Seats Upper House Entire Lower House
New York	1966	1966	49.3	49.2	49.4	49.1	Commission (court)	28 1 Vacancy	36	90	75	Entire Legislature
North Carolina	1966	1966	27.1	47.5	47.1	48.8	Legislature	49	1	106	14	Entire Legislature
North Dakota	1965	1965	40.9	48.7	31.9	48.7	Court	20	29	65	44	Entire Legislature
Ohio	1965	1965	30.3	47.3	44.7	49.6	Commission	16	16	62	75	Entire Legislature
Oklahoma	1965	1965	29.4	48.7	24.5	49.2	Legislature (court)	41	7	78	21	One-half Upper House Entire Lower House
Oregon	1961	1961	n.a.	48.1	n.a.	47.8	Secretary of State	19	11	28	32	One-half Upper House Entire Lower House
Pennsylvania	1966	1966	42.7	47.0	43.4	50.1	Court	21 1 Vacancy	27	116	93	One-half of Senate Entire Lower House
Rhode Island	1966	1966	46.5	n.a.	18.1	n.a.	Legislature	30 1 Rep.-Ind.	15	76	24	Entire Legislature
South Carolina	1961	1966	n.a.	46.2	23.3	48.0	Legislature	46	0	124	1	One-half Upper House Entire Lower House
South Dakota	1965	1965	38.5	46.7	38.3	47.1	Legislature	16	18	30	45	Entire Legislature
Tennessee	1965	1965	44.5	48.4	39.7	49.1	Legislature	24 2 Vacancies	9	74 1 Ind.	24	Entire Legislature
Texas	1965	1965	38.7	47.0	30.3	49.4	Legislature	31	0	149	1	Entire Legislature
Utah	1965	1965	37.7	47.6	25.3	44.5	Legislature	15	12	39	30	One-half Upper House Entire Lower House
Vermont	1965	1965	11.6	48.7	47.0	48.8	Legislature	6	24	35	115	Entire Legislature
Virginia	1964	1964	40.5	47.7	41.1	48.0	Legislature	37	3	89	11	None
Washington	1965	1965	28.0	46.7	35.6	47.6	Legislature	32	17	60	39	One-half Upper House Entire Lower House
West Virginia	1964	1964	40.0	46.2	46.7	46.7	Legislature	27	7	91	9	One-half Upper House Entire Lower House
Wisconsin	1964	1964	40.0	45.4	42.5	48.4	Court	13	20	52	48	One-half Upper House Entire Lower House
Wyoming	1963	1965	35.8	46.5	24.1	47.4	Legislature, court	12	13	34	27	Entire Legislature

**The electoral percentage is the percentage of each state's population which is theoretically able to elect a majority of each chamber of the state legislature.*

***Where two bodies are listed, the first reapportioned the House and the second reapportioned the Senate.*

†Unicameral legislature.

n.a. Not available.

SOURCES: National Municipal League, Legislature Reference Service, Chamber of Commerce of the U.S., Congressional Quarterly.

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turned provisions of the state's constitution giving each of the state's 14 counties two Senators, regardless of population, and guaranteeing each county at least one Representative, with the remainder of the House elected on the basis of the number of votes cast in each county in the preceding gubernatorial election.

ARKANSAS -- A three-judge federal court Nov. 4, 1965, approved a state Board of Apportionment plan reapportioning both houses of the Arkansas General Assembly on a population basis. The U.S. Supreme Court Feb. 28, 1966, in *Crawford County Bar Assn. v. Faubus*, affirmed the lower court decision, in effect rejecting a challenge to the formation of multimember, multicounty legislative districts.

Under the Board's new apportionment plan, the 100-member House was reduced from 75 single-county districts to 44 districts made up of one or more counties; the 35-member Senate was reduced from 26 to 25 single- and multicounty districts. Members in multimember districts, of which there are several, were directed to run at large. The plan provided that no new district would vary in population by more than 15 percent and raised the electoral percentage from 33.3 to 49.4 in the House and from 43.8 to 49.2 in the Senate. In upholding the plan, the lower court rejected certain "representation" arguments which claimed that smaller counties in districts formed by combining sparsely populated counties with densely populated counties would always be monopolized by larger counties.

Background -- The Arkansas Senate was last reapportioned in 1951 and the House in 1961. A federal court Jan. 28, 1965, found that the General Assembly was apportioned in violation of the "one-man, one-vote" doctrine and ordered the state to reapportion itself no later than June 15, 1965. This deadline was later extended to Aug. 15. The state Board of Apportionment, comprised of Gov. Orval E. Faubus (D), Attorney General Bruce Bennett (D) and Secretary of State Kelly Bryant (D), presented the court with its plan July 15. Democrats currently control both houses of the General Assembly.

CALIFORNIA -- The California Supreme Court Jan. 11, 1966, approved a Legislature plan reapportioning the state Senate and Assembly (lower house) on a more equitable population basis. The plan was passed by a special session of the Democratic-controlled Legislature Oct. 21, 1965, and signed into law by Gov. Edmund G. Brown (D) Oct. 27.

The Legislature's plan left the 40-member Senate and 80-member Assembly the same size but redrew district lines to conform with "one-man, one-vote" standards. The most significant shift in representation came in the Senate, where the number of Senators representing the 50 northern and central counties was reduced from 31 to 18 and the number representing the eight heavily populated southernmost counties was increased from nine to 22. Senate representation for Los Angeles County, the state's largest with a 1960 population in excess of 6 million, increased from 1 to 14-1/3, elected from districts. Under the old Senate apportionment, no county could have more than one Senator. The new plan only slightly affected the generally population-based Assembly, retaining the 31 Assemblymen from Los Angeles County but reducing the number of Assembly seats in San Francisco County from five to four (the district being eliminated is the only one in the county currently held by a Republican). Electoral percentages were raised from 10.7 to 48.9 for the Senate and from 44.7 to 48.5 for the Assembly.

In upholding the new reapportionment, the state Supreme Court said that it met population guidelines suggested by the courts, with no Senate or Assembly district deviating by more than 15 percent from the state district average. Other "peculiarly political questions" about the plan, the court said, could more properly be left to the determination of the Legislature. These other "questions" concerned objections that the plan (1) discriminated against racial, ethnic and political minorities in two senatorial districts -- San Francisco and Alameda (Oakland) Counties -- where at-large elections were required due to the Legislature's inability to agree on district lines and (2) sought to gerrymander Republicans out of control, particularly in San Francisco.

(The reapportionment plan approved by the court actually was a corrected version of the measure signed by Brown Oct. 27. Following the signing, certain minor errors were discovered, and the measure was returned to the Legislature, corrected and resubmitted to Brown. Brown, however, refused to sign the corrected bill because the Legislature had added a provision granting substantial pension benefits to legislators losing office under the new apportionment. The apportionment provisions of the corrected bill [the pension provision became a dead issue following Brown's refusal to sign] were then submitted to the court, which approved the plan as corrected by the Legislature.)

The new plans were expected to sustain the Democrats' preponderance in the Assembly (currently 49D, 31R) and perhaps benefit Republicans in the Senate (now 27D, 13R) as conservative Southern California areas shared in the gain of representation for that area while Democratic areas in Northern California lost some of their voice in the Senate.

Background -- The California Senate was last reapportioned in 1931 and the Assembly in 1961. On Dec. 3, 1964, a panel of three federal judges ordered the Senate to reapportion by July 1, 1965. The Legislature, however, failed to take Senate action by the time it adjourned June 18. On July 14, the state Supreme Court assumed jurisdiction in the case and on Sept. 1 ordered reapportionment of both the Senate and Assembly by Dec. 9. The special legislative apportionment session was convened by Brown Sept. 20.

COLORADO -- Gov. John A. Love (R) May 27, 1965, signed into law a General Assembly plan reapportioning the state Senate and House in line with the U.S. Supreme Court's "one-man, one-vote" decision. As approved, the measure was an only slightly modified version of a population-based plan passed by the General Assembly in June 1964 but allowed to stand only for the 1964 elections by a July 17, 1964, state Supreme Court decision. The court had ruled that the plan, by subdistricting multimember counties, was in violation of a provision of the state constitution which required countywide voting. (Efforts are currently underway to place a proposed constitutional amendment on the November ballot that will permit the election of all legislators from single-member districts.) The Senate is currently controlled by Republicans and the House by Democrats.

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The new apportionment scheme kept the Senate at 35 members and the House at 65 members. Members of both chambers would run from single-member districts, as under the 1964 plan, except that members in multi-district counties would run from the counties at large. Five Senators and nine Representatives under the new plan would represent districts deviating in population by more than 15 percent from the state district average. Under the 1964 plan, six Senators and 17 Representatives were from districts deviating by more than 15 percent. The new plan also raised the electoral percentage for the House from 45.3 to 46.8 and for the Senate from 46.9 to 47.5. Prior to the 1964 act, the House's electoral percentage was 32.1 and the Senate's was 29.8.

Background -- Colorado's 1962 legislative elections were held under a reapportionment plan enacted in 1953. During the 1962 elections, however, voters overwhelmingly approved an initiative establishing a "little federal" plan, under which the House was based on population but the Senate was frozen in districts that generally favored rural areas. In 1963, the initiative's provisions were implemented by the General Assembly and upheld by a federal court. On appeal, the lower court's decision was reversed by the U.S. Supreme Court June 15, 1964, in *Lucas v. 44th General Assembly*. The Supreme Court held that the 1963 plan was unconstitutional despite its approval in a popular referendum because, "An individual's constitutionally protected right to cast an equally weighted vote cannot be denied even by a vote of the majority of a state's electorate." Subsequently, a special 1964 session of the legislature enacted a new reapportionment plan which was upheld in federal court July 13 but ruled in violation of the state constitution by the state Supreme Court July 17. On Feb. 1, 1965, the U.S. Supreme Court, in *44th General Assembly v. Lucas*, upheld the lower federal court's ruling but remanded the case for consideration in light of the state court's decision.

CONNECTICUT -- A three-judge federal court Jan. 26, 1966, endorsed a revision in the Connecticut constitution providing for a decennial reapportionment of the General Assembly on the basis of "federal constitutional standards." The amendment to the 1818 constitution was adopted by a state Constitutional Convention Oct. 28, 1965, and approved by Connecticut voters by a 2-1 margin in a statewide referendum Dec. 14.

Under the new constitutional guidelines, which take effect following the 1970 census, the state Senate must consist of between 30 and 50 members and the state House of between 125 and 225 members. Members of both chambers will be elected from specially drawn districts. In the past, Connecticut guaranteed each town, regardless of population, at least one Representative in the House, thus helping Republicans even in the most Democratic of years. The new constitution ignored the word "population" as a basis for General Assembly apportionment, stating only that apportionment must be "consistent with federal constitutional standards." Presumably, reapportionment must nonetheless be by the population standard set down by the U.S. Supreme Court unless the U.S. Constitution is amended. The new constitution also set up a system for mandatory legislative reapportionment every 10 years. If the General Assembly fails to reapportion, an eight-member bipartisan commission would attempt to do the job. If it failed, a three-member committee, which would include two state Superior Court judges, would be given the task.

In light of the fact that the new constitution does not become effective until after 1970, the 1966 elections -- and probably the 1968 and 1970 elections -- will be governed by a "temporary" reapportionment plan adopted by the General Assembly Jan. 22, 1965. That plan, hammered out by state Republican and Democratic leaders in intensive negotiations prior to its submission to the General Assembly, fell within the new constitutional guidelines. Under it, the Senate remained at 36 members but district lines were redrawn to comply with "one-man, one-vote" standards. The plan also reduced the size of the House from 294 to 177 members, who would be elected from population-based districts rather than from towns. All members of both chambers would be elected from single-member districts, many of which deviated by more than 15 percent. The plan raised the electoral percentage from 11.9 to 43.8 for the House and from 31.9 to 47.9 for the Senate. Politically, the loss of small-town representation was expected to harm Republicans in the House, but the Senate apportionment shifting four seats from cities to suburbs, was likely to harm the Democrats and give the GOP its first chance for Senate control in many years.

Background -- The Connecticut Senate was last reapportioned in 1903; House apportionment has always been governed by standards set in 1818. The General Assembly in 1965 adopted the temporary reapportionment plan and made provision for the calling of a Constitutional Convention under federal court orders handed down Sept. 24 and Oct. 29, 1964. The court orders -- the first of which had canceled the November 1964 General Assembly elections -- followed failure of the Democratic-controlled Senate and Republican-controlled House to agree on a reapportionment plan during a special 1964 legislative session.

DELAWARE -- A Republican challenge to a Delaware General Assembly reapportionment plan was still pending in federal court on June 1, 1966. The plan, which had been passed by the Democratic-controlled General Assembly in 1964, was attacked on the grounds of population disparities and partisan gerrymandering.

The 1964 plan, which had been allowed to stand for that fall's elections, kept the House at 35 members but increased the size of the Senate by one, to 18. Within both chambers, however, representation for the heavily populated Wilmington area was increased significantly. Under the old plan, New Castle County received seven Senators and 15 Representatives, of which two Senators and five Representatives were allotted to the city of Wilmington. Under the new plan, New Castle received 12 Senators, of which four were given to Wilmington, and 24 Representatives, of which eight were given to Wilmington. Members of both chambers were to be elected from single-menber districts. The old electoral percentages were 18.5 for the House and 22 for the Senate. The new electoral percentages were not yet available.

Background -- Prior to the 1964 action, the General Assembly's apportionment was governed by guidelines in the state's 1897 constitution. Following a suit brought in 1962, the General Assembly adopted a constitutional amendment providing for a new method of apportionment. The constitutional amendment, which went into effect after approval by the 1963 Legislature, was subsequently in-

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validated by a federal court for continuing population inequalities. The lower court decision was affirmed by the U.S. Supreme Court June 15, 1964, in *Roman v. Sincock*, and the Legislature then adopted the 1964 statute.

FLORIDA -- A three-judge federal court March 18, 1966, upheld a Florida Legislature plan reapportioning the state House and Senate along population guidelines. The plan was passed by the Democratic-controlled Legislature and signed into law by Gov. Haydon Burns (D) March 9. The action followed a Feb. 25 U.S. Supreme Court decision *(Swann v. Adams)* which reversed an earlier lower federal court ruling allowing a plan adopted by the Legislature in 1965 to stand for the 1966 elections. As of June 1, 1966, it was unclear as to whether the lower court's March 18 decision would be appealed to the U.S. Supreme Court. *(Weekly Report p. 503)*

Under the new apportionment scheme, the state Senate was increased from 44 to 48 members and the state House from 112 to 117 members. Members of both chambers would run from districts coinciding with the state's Congressional districts. Several of the larger Congressional districts would be subdivided for the election of state legislators. In the Senate, Dade (Miami) and Monroe (Key West) Counties were combined in one district and would elect nine Senators at large. In the House, Dade County would elect 22 Representatives at large. Under the old plan, Dade County elected two Senators and 14 Representatives. Only one Senate and seven House districts under the new plan deviated in population by more than 15 percent. Electoral percentages were raised from 15.2 to 48.4 in the Senate and from 26.9 to 47.8 in the House.

Background -- Prior to enactment of a temporary reapportionment plan for the 1964 elections, the Florida Senate was last reapportioned in 1945 and the House in 1955. The 1964 plan was adopted by the Legislature in 1963 after several unsuccessful attempts during 1961 and 1962 to obtain federal court or voter approval of proposed new constitutional amendments governing reapportionment. Although the 1964 plan was found unconstitutional by the U.S. Supreme Court, it was allowed to stand for the 1964 elections. In January 1965, the lower federal court set a July 1, 1965, deadline for the Legislature to enact a valid reapportionment.

GEORGIA -- A three-judge federal court April 1, 1965, approved on an interim basis a Georgia General Assembly plan reapportioning the state House. The plan, which was allowed to stand only through the 1966 elections, was passed by the Democratic-controlled General Assembly March 10, 1965, and signed into law by Gov. Carl E. Sanders (D) the same day. A special court-ordered House election under the new plan was held June 16, 1965, and resulted in a Republican gain of 17 seats (from 6 to 23) and the election of eight Negroes (all Democrats) -- the first of their race to serve in the Georgia House since 1907. The special election applied to members in all but 64 districts not affected by reapportionment and where incumbents were not required to stand for reelection until the November 1966 elections.

Under the new apportionment, the rural-dominated, 205-member House remained the same size, but district lines were redrawn to increase urban representation. In all, more than 50 of the less populated counties lost their individual representatives, causing them to share a representative with one or more other counties. In heavily populated Fulton County (Atlanta), the number of Representatives was increased from three to 24 (21 to be elected from individual districts and three to be elected countywide) and in neighboring DeKalb County (Atlanta suburbs), the number was increased from three to 12. Several of the new districts deviated from the state district average by more than 15 percent. The plan also raised the electoral percentage in the House from 22.5 to 42.3. Under the old method of apportionment, the eight most populous counties got three House members each, the 30 next most populous counties two members each and the remaining 121 counties one member each.

In its 1965 ruling approving the apportionment for 1966, the federal court in Atlanta had directed the General Assembly to draw up a more satisfactory reapportionment plan in time for the 1968 elections. The new plan, the court said, would have to apply both to the House and to the Senate, eliminating vestiges of population inequality. The Senate had been reapportioned, under federal court order, in 1962, with the electoral percentage being raised from 21.4 to 48.2. Based on a Florida suit *(see above)*, plaintiffs in the original suit went back into federal court early in 1966 and demanded that the timetable for complete reapportionment be moved up so that action would take place before the 1966 elections. The court March 25 in *Toombs v. Fortson* rejected that proposal and reaffirmed its direction that reapportionment be carried out by May 1, 1967. On appeal, the U.S. Supreme Court May 16, 1966, affirmed the lower court decision. *(Weekly Report p. 1013)*

Background -- Reapportionment of the Georgia House was carried out under a June 1964 federal court order requiring a new apportionment plan to be adopted by the end of the regular 1965 session of the General Assembly.

The Senate's 1962 reapportionment had also been enacted by the General Assembly under federal court orders. It provided for a Senate of 54 members elected from single-member districts and directed that Senators in multidistrict counties were to be elected on a countywide basis. A challenge to the countywide voting provision was upheld by a three-judge federal court March 27, 1964, but the U.S. Supreme Court Jan. 18, 1965, in *Fortson v. Dorsey*, reversed that decision. The Supreme Court held that, at least in Georgia's case, countywide voting would not dilute anyone's vote. It indicated, however, that if such voting were to operate "to minimize or cancel out the voting strength of racial or political elements," it would be unconstitutional.

HAWAII -- The U.S. Supreme Court April 25, 1966, in three cases decided together *(Burns v. Richardson, Cravalho v. Richardson* and *Abe v. Richardson)* reversed a lower federal court decision and allowed a 1965 Hawaii Legislature plan reapportioning the state Senate to stand for the 1966 elections. The plan, which used registered votes as a base and created several multimember districts, was passed by the Legislature April 14, 1965, but was invalidated by the federal court April 28. The lower court had not contested the use of registered voters but did question why the Legislature did not consider other factors -- such as ethnic, economic and social -- in reapportioning the Senate. In addition, the court objected to the creation of multimember instead of single-member

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Senate districts, criticized the Legislature for drawing Senate districts generally coinciding with the boundaries previously drawn for House districts and suggested that the only valid way of reapportioning the Senate was by an amendment to the state constitution. In light of the Supreme Court decision, the Hawaii Legislature was expected to adopt a new apportionment scheme governing both the Senate and House following the 1966 elections.

In overturning the lower court decision, the Supreme Court stated that it approved the use of registered voters as a base of apportionment because it substantially approximated the "state citizen population." The Court declared, however, that it would not approve the use of registered voters if it sought to maintain malapportionment or to "perpetuate underrepresentation of groups constitutionally entitled to participate in the electoral process." *(Weekly Report p. 887)*

On the question of the creation of multimember districts, the Court repeated its decision in the Georgia *Fortson v. Dorsey* case that multimember districts would be held unconstitutional only after proof they were "designed to or would operate to minimize or cancel out the voting strength of racial or political elements of the voting population." *(See above.)*

Under Hawaii's new Senate plan, the upper chamber remains 25 members, but the number of districts from which they will be elected is increased from six to eight. Seven of the new districts are multimember. Under the current House apportionment, which was set in 1959, 51 Representatives are elected from 18 districts. The current electoral percentage for the House is 38.4. The old percentage for the Senate was 18.1; the new percentage is not yet available.

Background -- In 1964, the Hawaii Supreme Court upheld the apportionment of the state House but invalidated that of the state Senate. A federal court assumed jurisdiction over the Senate apportionment case in the fall of 1964 but deferred action until after the 1964 elections. On Feb. 17, 1965, the federal court ruled the Senate's apportionment unconstitutional, ushering in a year-long dispute between the Legislature and the court over the proper method of reapportioning.

IDAHO -- A three-judge federal court April 1, 1966, approved as consistent with "one-man, one-vote" standards a new plan reapportioning both chambers of the Idaho Legislature. The plan was passed by the Republican-controlled Legislature March 12 and signed into law by Gov. Robert E. Smylie (R) March 22.

The new apportionment provided for a House of 70, rather than 63 members, and for a Senate of 35, rather than 44 members. Instead of continuing old guidelines which guaranteed each of the state's 44 counties one Senator each and at least one Representative each, the plan divided the state into 35 equally populated legislative districts, each of which would elect one Senator and two Representatives. In some instances, county lines were crossed in the creation of the new districts. In addition, seven of the new districts were subdivided into single-member House districts. The old electoral percentages were 32.7 for the House and 16.6 for the Senate. The new percentages were not yet available. The plan was not expected to change Republican control of the Legislature.

Background -- The Idaho Senate had always been comprised of one member for each county. The House was last reapportioned by population factors in 1963, but each county was still assured at least one Representative. A lower federal court declined to rule on the constitutionality of either the 1963 House reapportionment or the customary Senate apportionment. However, on June 22, 1964, the U.S. Supreme Court, in line with its decision in *Reynolds v. Sims*, voided the apportionment of both chambers. Following failure of the 1965 regular session of the Legislature to produce an acceptable plan, a special legislative session was convened and reapportioned both chambers. The plan reduced population inequalities but conformed to the state constitutional provision guaranteeing every county at least one representative in both Senate and House. On Dec. 20, 1965, however, the federal court invalidated the 1965 plan (including the state constitutional provisions on which it was based) and directed the Legislature to reapportion again before the 1966 elections.

ILLINOIS -- Separate plans for reapportioning both chambers of the Illinois General Assembly on a more equitable population basis were ordered in 1965 following failure of the General Assembly to resolve the issue itself. On Aug. 25, the state Supreme Court, acting in conjunction with a three-judge federal court, handed down a plan reapportioning the state Senate. On Dec. 4, a 10-member bipartisan House Reapportionment Commission, convened in accordance with the state constitution by Gov. Otto Kerner (D), issued a plan reapportioning the state House. The Senate plan was currently under appeal to the U.S. Supreme Court.

Under the court-imposed Senate plan, the upper chamber continued to have 58 single-member districts. Cook County (Chicago and suburbs), with slightly more than half of the state's 10-million population, received 30 Senate districts, an increase of six, and the state's remaining 101 "downstate" counties received 28 districts, a reduction of six. Within Cook County, the city of Chicago got 21 seats, an increase of three, and the suburbs received nine seats, also an increase of three. None of the new Senate districts varied in population by more than 8 percent, and the new electoral percentage for the Senate was approximately 50, instead of the old 39.9.

On Sept. 9, the state Supreme Court ruled that all Senators under the new plan must be elected for four-year terms in 1966 and 1970. This temporarily suspended (until results of the 1970 census would become known) a provision of the state constitution which provided for the election of half of the Senate every two years. Providing for "staggered terms in a temporary scheme," the court said, "would unduly and unnecessarily encroach upon the legislative domain." Previously, Senate apportionment was based on geographic factors favoring Republican-oriented "downstate" areas. Observers estimated that under the new Senate plan Republicans would probably continue to hold control but by a narrower margin than before.

Under the Commission-drafted House plan, the lower chamber was kept at 177 members elected from 59 three-member districts, but district lines were redrawn to reflect more accurately a "one-man, one-vote" apportionment. In Cook County, the 30 new House districts with 90 members were made coterminous with the 30 new Senate districts, 21 falling in the city of Chicago and nine in the suburbs. Under the old apportionment, Cook County was also guaranteed 30 House districts, but 23

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were in the city of Chicago and seven in the suburbs. In "downstate" Illinois, 29 new House districts with 87 members were drawn, but their lines differed markedly from the 28 new "downstate" Senate districts. In some instances, county lines were crossed in drawing the new districts. The plan raised the House's electoral percentage from 28.7 to 49.1. The House, which went heavily Democratic in the 1964 elections, was expected to remain under Democratic control.

Background -- The Illinois General Assembly last reapportioned in 1955. Action by the courts and the Commission in 1965 followed unsuccessful attempts by the Legislature to come up with acceptable plans prior to adjourning June 30. Both chambers were under 1964 court orders to reapportion. Under the state constitution, first the General Assembly and then a bipartisan Reapportionment Commission are responsible for drafting House apportionment plans. (Failure of the General Assembly and the Commission to reach a reapportionment compromise in 1964 resulted in a court decision requiring the 1964 House elections to be held at large.) Jurisdiction over Senate reapportionment was first assumed by a three-judge federal court and then by the state Supreme Court. A June 1, 1965, U.S. Supreme Court decision *(Scott v. Germano)* allowed the state Supreme Court to settle the reapportionment controversy if the General Assembly failed to act and also allowed the federal court to retain jurisdiction to rule on the constitutionality of any General Assembly or state court plan. In the end, the state court and the federal panel joined together in producing an acceptable Senate plan.

INDIANA -- A three-judge federal panel Nov. 18, 1965, approved separate Indiana General Assembly plans reapportioning the state House and Senate on strict population bases. The plans approved by the court were chosen from eight reapportionment measures -- four for the House and four for the Senate -- passed by a special Oct. 18-Nov. 19 session of the Democratic-controlled General Assembly and signed by Gov. Roger D. Branigin (D). The General Assembly had requested the court to choose the two plans it found constitutional and to invalidate the remainder.

Under the new apportionment, the 100-member House and 50-member Senate remained the same size, but district lines were redrawn to increase urban representation. Marion County (Indianapolis), for example, retained its 15 House members but received eight instead of 5-1/2 Senate members. Both the House and Senate plans included single-county, multimember districts as well as multicounty, multimember districts. Members in such areas were to be elected on an at-large basis. (The creation of multicounty, multimember districts overturned an 1896 Indiana Supreme Court decision outlawing such arrangements.) None of the new districts deviated by more than 15 percent from the population of the average size district. The plan raised the electoral percentage from 34.8 to 48.7 in the House and from 40.4 to 49.5 in the Senate.

The product of Democratic authorship, the new plans may help the Democrats retain some of the overwhelming power they achieved in the 1964 elections when the Senate went 35-15 Democratic and the House 75-22 Democratic.

Background -- The Indiana General Assembly reapportioned in 1963 only shortly before the federal court ruled the last apportionment, dating back to 1921, invalid. Although vetoed by then-Gov. Matthew E. Welsh (D 1961-65), the 1963 law was allowed to stand for the 1964 elections due to a state Supreme Court ruling that the veto had been registered too late. However, on Feb. 26, 1965, the federal court ruled the 1963 law unconstitutional, forcing the General Assembly to reapportion again during its regular 1965 session. On Sept. 20, 1965, the federal court ruled again, striking down the 1965 reapportionment scheme and ordering a new plan drawn by Dec. 1. The court action on the 1965 law resulted from the General Assembly's inclusion of the "floterial" district system -- that is, the creation of a plan in which a single county is included wholly in two or more districts.

IOWA -- The Iowa Supreme Court April 15, 1966, approved a temporary General Assembly plan reapportioning the state House and Senate on a more equitable population basis. But the court stipulated that multimember districts had to be subdistricted in time for the 1968 legislative elections. The plan, without a subdistricting requirement, was passed by the Democratic-controlled General Assembly and signed by Gov. Harold E. Hughes (D) June 3, 1965. It was to remain in effect until a proposed constitutional amendment providing for a permanent method of reapportionment is approved by voters in 1967 or 1968. The proposed amendment was originally drafted in 1964, amended by the General Assembly in 1965 and now must be approved again during the 1967 legislative session.

The temporary reapportionment plan enacted by the General Assembly in 1965 replaced another temporary scheme approved in 1964 but declared unconstitutional following the 1964 elections. The 1965 plan retained most aspects of the 1964 plan, including provision for a 124-member House, but increased the size of the Senate from 59 to 61 members and revised certain objectionable Senate districts. The two additional Senators were allotted to Polk County (Des Moines), increasing its Senate representation from three to five members. Several of the districts deviated in population by more than 15 percent. Prior to adoption of the 1964 and 1965 plans, the electoral percentage of the House was 26.9 and that of the Senate 35.2. The new plan increased these to 44.8 and 45.1, respectively.

Under the proposed constitutional amendment, the General Assembly would be required to reapportion after each decennial census; and if it failed to act, the job would be done by the state Supreme Court. The proposed amendment also provided for a 50-member Senate and 100-member House, both elected on a population basis, except that other factors, if constitutional, could be considered for Senate apportionment.

In its decision *(Kruidenier v. McCulloch)* upholding the new temporary plan, the state Supreme Court ruled that at-large elections in multimember districts would operate to dilute an individual's vote and thus would violate the equal protection clause of the 14th Amendment to the U.S. Constitution. The court's opinion cited the U.S. Supreme Court's decision in *Fortson v. Dorsey*, which had stated that at-large elections in multidistrict counties in Georgia were valid but might not be in other states, depending on the circumstances. *(See above.)*

Background -- The Iowa General Assembly reapportioned on a temporary basis in 1961, and, at the same

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time, approved a proposed constitutional amendment providing for a new permanent method of reapportioning. As required by the constitution, the proposed amendment was held over for approval of the 1963 legislative session. However, when finally submitted to the voters for ratification on Dec. 3, 1963, the amendment was rejected. On Jan. 14, 1964, a federal court found the temporary 1961 apportionment plan invalid, and the General Assembly, meeting in special session in 1964, reapportioned again and also adopted another constitutional amendment providing for a permanent apportionment plan. Following the 1964 *Reynolds v. Sims* decision, the federal court Feb. 11, 1965, found the temporary 1964 plan unconstitutional, thus forcing the 1965 legislative action. During the 1965 session, the proposed constitutional amendment was revised, necessitating its holdover for final approval by the General Assembly in 1967. In the meantime, the temporary 1965 plan was challenged on the grounds that it did not provide for subdistricting of multimember districts.

KANSAS -- The Kansas Supreme Court March 23, 1966, approved a Legislature plan reapportioning the state House in accordance with the "one-man, one-vote" formula set by the U.S. Supreme Court. The plan was passed by the Republican-controlled Legislature March 2 and signed into law by Gov. William H. Avery (R) March 8. The court called the new plan a "rational and conscientious state policy" in its observance of county boundaries where consistent with equal population standards. The state's 40-member Senate is under a 1965 federal court order to reapportion by April 1, 1968.

Under the Legislature's reapportionment plan, the House remained at 125 members, but instead of being elected on the basis of one seat for each of the state's 105 counties with the 20 additional seats going to the most populous areas, members would henceforth be chosen from 125 single-member, population-based election districts. Of the total new districts, 122 deviated in population from the state district average by less than 9 percent. The plan also increased House representation for such urban areas as Wyandotte County (Kansas City) from 5 to 11 members, Johnson County (Kansas City suburbs) from 5 to 10, Sedgwick County (Wichita) from 9 to 18 and Shawnee County (Topeka) from 3 to 8. The new electoral percentage for the House was increased to 48.7 from only 19.4.

Background -- The Kansas Senate in 1959 and the House in 1961 were reapportioned under terms of the state constitution. The provision ensuring each county at least one Representative had been part of the constitution since 1873. On June 26, 1962, a state court found these apportionments invalid but reserved further judicial action until the 1963 session of the Legislature had the opportunity to act. The 1963 session failed to produce acceptable plans, and a special session convened in February 1964 came up with plans approved by the state Supreme Court March 30, 1964. Following the 1964 *Reynolds v. Sims* decision, however, the new House and Senate plans were held unconstitutional by the state court March 1, 1965, and a lower federal court Dec. 28, 1965, respectively. Both chambers were directed to enact new plans for the 1966 elections. On Feb. 28, 1966, the federal court extended the Senate deadline to April 1, 1968, thus giving Senators elected for four years in 1964 an opportunity to serve out their full terms.

KENTUCKY -- Both chambers of Kentucky's Democratic-controlled General Assembly were voluntarily reapportioned on a straight population basis in February 1963. The new apportionment raised the electoral percentage from 42 to 46.6 in the 38-member Senate and from 34.1 to 44.8 in the 100-member House. Several of the new Senate and House districts, however, deviated by more than 15 percent. The plan has not been challenged.

LOUISIANA -- A three-judge federal court Feb. 8, 1966, deferred further action on a reapportionment suit pending since 1963 but ordered the Louisiana Legislature to reapportion in time for the 1966 elections or face the possibility of imposition of a court-ordered plan or at-large elections. The regular session of the Legislature convened May 9 but had taken no final action by June 1.

Currently, apportionment of the state House was governed by a plan enacted in 1963 while apportionment of the state Senate was under a plan which had been only slightly revised since 1921. The Senate was comprised of 39 members elected from 35 districts and the House of 105 members elected one per each of the state's 63 parishes and one per each of New Orleans' 17 wards, with the remaining 25 members distributed throughout the state on a population basis. Thirty-two Senators and 82 Representatives were from districts deviating in population by more than 15 percent. The current electoral percentage of the Senate was 33 and of the House 33.1.

MAINE -- The Democratic-controlled Maine Legislature Jan. 27, 1966, passed, and Gov. John H. Reed (R) Jan. 30 signed into law a plan proposing an amendment to the state constitution to revise the method of apportioning the state Senate. The plan approved was actually of Republican authorship, but Democrats detected no GOP gerrymandering in it. Prior to final passage, the Maine Supreme Court had advised that the plan met federal "one-man, one-vote" standards. If approved in a statewide referendum in November 1966, the proposed amendment would allow the 1967 Legislature to draw new Senate districts effective for the 1968 elections.

Under the plan, the Senate would be apportioned on the basis of one member for each 30,000 people, with a maximum permissible variation of 10 percent. In drawing the new districts, the Legislature has been directed to follow county lines where possible. The new plan was not expected to change the size of the 34-member Senate, but representation for urban areas would increase at the expense of the less populated regions of the state. For example, Cumberland County (Portland) would probably receive six or seven, rather than the current four, Senate members. Currently, the Senate, with an electoral percentage of 40.8, is apportioned on the basis of one Senator for each of the state's 16 counties, with the remaining 18 seats distributed between the most populous counties.

The 151-member Maine House (with an electoral percentage of 40) was reapportioned on a population basis in 1964 under constitutional guidelines approved by voters in 1963.

Background -- The Maine Senate was last reapportioned under terms of the state constitution in 1961. Although no court challenges were made against that apportionment, the Legislature's 1966 action was taken in response to reports that if Senate apportionment were not revised in 1966, a court challenge would be made.

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MARYLAND -- The Maryland Court of Appeals Jan. 11, 1966, affirmed a lower court decision upholding a General Assembly plan reapportioning the state House and Senate on a more equitable population basis. The lower court had been asked to chose between two plans passed by a special session of the Democratic-controlled General Assembly Oct. 21, 1965, and signed into law by Gov. J. Millard Tawes (D) Oct. 27.

The General Assembly plan approved by the state courts kept the size of the House at 142 members but increased the size of the Senate from 29 to 43 members. In the House, members would be elected as before, with each of the state's 29 political subdivisions -- 23 counties and six election districts in the city of Baltimore -- assured at least one delegate. In the Senate, members would be elected from 16 specially drawn districts, instead of one per political subdivision as before. House and Senate districts electing more than one member were required to subdistrict. In all, only 10 of the 142 House members and eight of the 43 Senate members would represent areas deviating in population by more than 15 percent from the state district averages. In addition, the plan increased urban-suburban representation in the House from 55 to 75 percent and in the Senate from 34 to 75 percent. The electoral percentage for the House was raised from 35.6 to 50.5 and for the Senate from 14.1 to 47.8.

Under the alternate General Assembly plan rejected by the courts, the House provisions were the same as for the accepted plan, but the Senate would have been comprised of 53 members, with each county guaranteed at least one member. Rejecting an appeal filed by two incumbent state Senators, the U.S. Supreme Court May 23, 1966, refused to order the 53-member Senate in place of the one selected by the Maryland courts.

Background -- In 1962, a state court invalidated the apportionment of the Maryland House but upheld that of the Senate. A special session of the General Assembly subsequently enacted a temporary House reapportionment plan effective for the 1962 elections, when members of both chambers were elected for four-year terms, and also a permanent House plan to go into effect for the 1966 legislative elections. On June 14, 1964, however, the U.S. Supreme Court in *Maryland Committee for Fair Representation v. Tawes* ruled that both houses of the General Assembly were unconstituionally apportioned and directed that a new plan be drafted before the 1966 elections. The Oct. 11-27, 1965, special session of the General Assembly was convened after the regular 1965 session adjourned without taking final action on a new House and Senate plan.

Population-based apportionment in Maryland promised to end an era in which the lightly populated Eastern Shore, Southern and Western Maryland areas dictated state policy over the increasingly heavy population areas surrounding Baltimore and Washington, D.C. A last-ditch effort by rural interests to petition the new reapportionment plan to a referendum failed when not enough petition signatures were obtained by a May 31, 1966, deadline.

MASSACHUSETTS -- The Massachusetts Senate was last reapportioned in 1961 and the House in 1963. Apportionment of both chambers is based on legal voters rather than total population. The current electoral percentages are 45.5 for the House and 50.5 for the Senate. Although no court challenges have been filed since the 1964 *Reynolds v. Sims* decision, the General Court (Legislature) is required to reapportion at its next regular session on the basis of the state's 1965 census. Democrats currently control both houses.

MICHIGAN -- The Michigan Supreme Court March 8, 1966, announced that it had deadlocked in efforts to draft a new plan reapportioning the state Legislature and ordered continuation of a court-imposed 1964 plan at least until 1970 census figures were available for the basis of a new apportionment. The court decision followed failure of an eight-man bipartisan Legislative Reapportionment Commission to come up with a plan for the court by Dec. 31, 1965. The Commission had been directed to act after the court Nov. 2, 1965, declared its own 1964 plan invalid. Elections under that plan in 1964 resulted in Democrats gaining control of both chambers of the Legislature for the first time in 30 years. Though based on equal populations, the plan cut across many political boundaries and was originally written by Democratic leaders and then accepted by the court as its own.

Under the 1964 measure, the state Senate was apportioned into 38 single-member districts and the state House into 110 single-member districts, with multimember counties required to subdistrict for both houses. (Previously, the Senate had been apportioned into 34 single-member districts and the House into 110 single- and multimember districts.) The maximum population deviation for the Senate under the 1964 plan was only 6 percent and for the House 8.6 percent.

Background -- On April 2, 1963, Michigan voters approved a revision in the state constitution drafted by a Constitutional Convention that met during 1961-62. The new constitution set aside provisions drafted in 1952 that froze the Senate at 34 single-member districts and provisions drafted in 1908 that provided for a generally population-based House of not more than 110 members. Under the new provisions, the House was to be based strictly on population, while the Senate's apportionment was to be 80-percent population-based with 20-percent deviation for geography. The new constitution also provided that future reapportionment would be done but by a bipartisan commission and, if it deadlocked, by the state Supreme Court. The 1963 amendments were upheld by a federal court March 16, 1964, but the U.S. Supreme Court June 22, 1964, in *Marshall v. Hare*, reversed that decision because of the "little federal plan" principle involved.

Prior to *Marshall*, the new reapportionment commission met to consider reapportionment under the 1963 constitutional guidelines but deadlocked on an acceptable plan, throwing the issue into the hands of the state Supreme Court. On May 26, 1964, the state court adopted a Republican-backed plan, which adhered to standards set in the state constitution. Following *Marshall*, however, the state court discarded the plan and substituted the Democratic-backed plan adhering to federal standards of population equality. The new plan stood for the 1964 elections but was subsequently challenged on the grounds of partisan gerrymandering. The court apparently upheld the complaints against the 1964 plan in its Nov. 2, 1965, action, but its own partisan divisions (justices are elected, and their own party backgrounds are well known) apparently made it impossible for the court to fashion any effective relief for plaintiffs in the case. Republicans claimed that any other reapportionment plan would give

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them at least five more House seats and two more Senate seats. Current line-up from the 1964 elections is: House D 72, R 38; Senate D 23, R 15. One GOP argument is that the existing plan, in its thrust toward absolute population equality, needlessly ignored state constitutional requirements that districts have a rational design within existing boundaries.

MINNESOTA -- Following a protracted partisan wrangle, the Conservative-dominated Minnesota Legislature May 18, 1966, passed and Gov. Karl F. Rolvaag (D) May 20 signed into law a plan reapportioning the state House and Senate on a straight population basis. The plan must still be approved by the courts.

Under the new plan, the House remained at 135 members and the Senate at 67 members. Senators would continue to be elected from single-member districts and Representatives from single- and multimember districts corresponding to the Senate districts. The plan provided for a greater "one-man, one-vote" distribution than before by shifting 5-1/2 Senate and 11 House seats into the heavily populated Twin Cities (Minneapolis-St. Paul) area. Only one Senator and four Representatives would be from districts deviating from the state district average by more than 15 percent. The electoral percentages were raised from 40.1 to 48.1 for the Senate and from 34.5 to 47.2 for the House.

Background -- Both chambers of the Minnesota Legislature were reapportioned in 1959 following an historic court suit, a forerunner of *Baker v. Carr*, in which plaintiffs claimed deprivation of their constitutional rights because of population inequalities. In December 1964 a federal court declared the 1959 apportionment unconstitutional and ordered the 1965 Legislature to reapportion itself. A plan was passed by the Legislature in May 1965, but it was subsequently vetoed by Rolvaag. Another attempt to reapportion by the Legislature was also vetoed by Rolvaag on May 11, 1966. Following this, Rolvaag and members of the Legislature were able to work out the successful plan adopted May 20.

MISSISSIPPI -- A 1965 suit challenging a Mississippi Legislature reapportionment plan adopted in 1963 was still pending on June 1, 1966. A federal court had withheld action on the suit, giving the Legislature the opportunity to reapportion in time for the 1966 elections. As of June 1, however, the Legislature had taken no final action, and indications were that the court would finally have to do the job.

Under the 1963 plan, the state House was set at 122 members with each of the 82 counties guaranteed at least one Representative. The state Senate was set at 52 members with no single county to get more than one Senator. In the House, multimember counties were required to subdistrict or Representatives could run at large but by position. In the Senate, multimember districts were required to elect Senators at large but by position. Under the plan, 75 of the 122 Representatives were from districts deviating by more than 15 percent and 35 of the 52 Senators were from districts deviating by more than 10 percent. The plan raised the electoral percentage for the House from 29.1 to 41.2 and for the Senate from 34.6 to 37.4.

Background -- Prior to 1963, the Mississippi Legislature had not been significantly reapportioned since 1890. In 1962, a state court ruled the Legislature's geography-based apportionment unconstitutional. In a special 1962 session, the Legislature adopted a constitutional amendment providing for the new apportionment. The amendment was ratified by voters in February 1963.

MISSOURI -- Acting under traditional state constitutional guidelines, a 10-member bipartisan Senatorial Apportionment Commission reapportioned the Missouri Senate Sept. 11, 1965, in accordance with the Supreme Court's "one-man, one-vote" ruling. Acting under new constitutional guidelines approved by voters Jan. 14, 1966, a 20-member bipartisan House Apportionment Commission reapportioned the state House March 23, 1966. Members of both Commissions had been appointed by Gov. Warren E. Hearnes (D).

The new Senate plan kept the upper chamber at 34 single-member population-based districts but redrew district lines to increase urban representation. In several instances, counties were divided in drawing multicounty districts. No new district deviated in population by more than 4.6 percent from the average size district. Under the state constitution, the maximum permissible deviation had been set at 25 percent and the division of counties in the creation of multicounty districts was prohibited. The new plan also raised the electoral percentage for the Senate from 47.7 to 52. The Senate is currently controlled by Democrats, and they were expected to retain a majority.

The new House apportionment kept the lower chamber at 163 members, but district lines were redrawn to make single-member districts with no deviation above 10 percent. There are several multidistrict counties, as well as several multicounty districts. Currently, the House is apportioned on the basis of one Representative for each of the state's 106 smallest counties, with the remaining 57 members allotted to the state's other eight larger counties and St. Louis City. House representation for the state's three most populous counties would increase from 42 to 77 members: the City of St. Louis would receive 28 members, instead of 14; St. Louis County (St. Louis suburbs) would receive 26, instead of 15; and Jackson County (Kansas City) would receive 23 instead of 13. The plan raised the electoral percentage for the House from 20.3 to 49.8. Democrats were expected to retain control.

Background -- The Missouri House and Senate were last reapportioned in 1961 -- the House by the General Assembly and the Senate by the Senatorial Apportionment Commission. In 1964, the apportionment of both houses was challenged in federal court, but the court deferred action until the end of the 1965 legislative session. The Senate Commission disposed of Senate reapportionment without much controversy. The General Assembly June 15, 1965, passed separate measures reapportioning the House and proposing a constitutional amendment to validate the apportionment act. On Aug. 17, 1965, however, voters rejected the proposed amendment. The General Assembly reconvened in special session Oct. 18 and subsequently adopted another constitutional amendment, which was ratified by voters Jan. 14, 1966. The new amendment set up a commission, similar to that for the Senate, to handle future House reapportionment. It officially validated the Senate Commission's earlier Senate reapportionment and deleted the provision of the state constitution prohibiting the division of counties in multicounty districts.

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MONTANA -- A three-judge federal court Aug. 6, 1965, ordered into effect for the 1966 elections only a court-drawn plan reapportioning the Montana Legislative Assembly on a straight population basis. The court order, which also provided that its plan could be replaced by one enacted by the 1967 legislative session, followed failure of the Democratic-controlled Legislative Assembly to pass an acceptable plan of its own during the regular 1965 session. However, the Legislative Assembly did adopt a proposed constitutional amendment providing guidelines for a population-based apportionment that would be submitted to voters for ratification at the November 1966 elections.

The temporary court-imposed reapportionment plan provided for a state Senate of 55, instead of 56 members, and for a state House of 104, instead of 94 members. The plan preserved all county lines but provided for the election of Senators from 31 single- and multimember districts and the election of Representatives from 38 single- and multimember districts. Members from multimember districts were to be elected at large. The old apportionment gave each of the state's 56 counties one Senator and at least one Representative, with the remainder of the House elected on a popution basis. House representation for Yellowstone County (Billings) under the new plan was increased from nine to 12 members and for Cascade County Great Falls) from nine to 11 members. Yellowstone and Cascade Counties also received six Senators each. Several of the new House and Senate districts deviated by more than 15 percent. The plan raised the electoral percentage for the House from 36.6 to 49 and for the Senate from 16.1 to 46.9.

Background -- The composition of the state Senate is governed by the state constitution and that of the state House by statute. The apportionment of the Legislative Assembly was challenged in federal court Jan. 7, 1965, but judicial action was deferred until the legislature had an opportunity to act.

NEBRASKA -- A three-judge federal court Feb. 10, 1966, approved a Nebraska Legislature plan reapportioning the nation's only unicameral state legislature on a straight population basis. The plan was passed by the Legislature Aug. 17, 1965, and signed into law by Gov. Frank B. Morrison (D) Aug. 18. The Legislature is officially nonpartisan.

Under the new apportionment, the Legislature remained at 49 members elected from single-member districts, with multimember counties to be subdistricted. Only two members would represent districts that deviated in population by more than 10 percent from the state district average. The largest deviation was 12.6 percent. Douglas County (Omaha), the state's largest with 25 percent of the total population, would receive 12, instead of 10, members. The electoral percentage was raised to 49.3 from 44. Under the old method of apportionment, the state constitution provided for a generally population-based Legislature, with between 20 and 30 percent of the membership to be based on geography.

Background -- The Nebraska Legislature was last reapportioned in 1963 under new constitutional guidelines approved by voters in 1962. Following *Reynolds v. Sims*, the federal court July 17, 1964, invalidated those portions of the state constitution providing for apportionment on a geographical basis but withheld further judicial action, directing the 1965 session of the Legislature to come up with a constitutional apportionment. The 1963 reapportionment was allowed to stand for the 1964 elections. The Legislature March 29, 1965, reapportioned again, but the court May 12 struck down the plan, noting that certain population variations were too large. On Aug. 17, the Legislature, still in regular session, enacted a new reapportionment measure and also adopted a proposed constitutional amendment deleting the geographic provisions of the state constitution. the amendment was to be submitted to the voters in November 1966.

NEVADA -- Although stating that the plan "approached dangerously close to the edge of unconstitutional waters," a three-judge federal panel March 21, 1966, approved a Nevada Legislature measure reapportioning the state House and Senate on a more equitable population basis. The plan was passed by a special session of the Legislature Nov. 15, 1965, and signed into law by Gov. Grant Sawyer (D). The new plan ended traditional rural control of the Legislature by shifting 70 percent of the membership to Clark County (Las Vegas) and Washoe County (Reno), the major gambling centers of the United States.

Under the Legislature's new reapportionment plan, the House was increased from 37 to 40 members and the Senate from 17 to 20 members. New district lines were drawn to reflect "one-man, one-vote" standards, thus changing the old method of apportionment under which each of the state's 17 counties received one Senator and at least one Representative. In the cases of Clark and Washoe Counties, some members would be elected from individual districts, while additional members would be elected on a countywide basis. House and Senate representation for Clark County, with 44.5 percent of the state's population, increased from 11 to 16 and 1 to 8 members, respectively. In all, 5 of the 20 Senators and 20 of the 40 Representatives would represent districts deviating by more than 15 percent from the state district average. The electoral percentage for the House was increased to 46.8 from 29.1 and for the Senate to 49.7 from 8.

Background -- State constitutional provisions governing Senate apportionment were last revised in 1950. The House was last reapportioned in 1961. On Aug. 18, 1964, a challenge to the apportionment of both chambers was filed, but judicial action was deferred until the regular 1965 session of the Legislature had an opportunity to act. The Legislature, however, adjourned April 4, 1965, without producing an acceptable plan. On Sept. 24, the federal court declared the current apportionment unconstitutional and directed the convening of a special session to come up with a plan before Nov. 20.

NEW HAMPSHIRE -- The Republican-controlled New Hampshire General Court (Legislature) June 23, 1965, passed and Gov. John W. King (D) June 30 signed into law separate plans reapportioning the state House and Senate on a more equitable population basis. The measures reapportioned the General Court under terms of new constitutional guidelines adopted by Constitutional Convention and approved by voters in 1964. The new reapportionment added some city and large town seats, thus aiding the Democrats, but it was not expected to threaten the existing Republican majorities in both chambers.

Under the new apportionment, the size of the House and Senate remained at 400 members and 24 members, respectively. All Senators would be elected from single-

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member districts, while some Representatives would be elected from multimember districts. The maximum population variation for the Senate would be 11 percent, but 80 of the 400 Representatives would represent districts deviating above 15 percent. The plan raised the electoral percentage for the House from 44 to 45.2 and for the Senate from 43.8 to 52.5. Under the 1964 amendment, the basis for Senate representation had been changed from equalized units of taxable property to population. Several changes were also made in the House, which was already roughly based on population. For example, small towns, which had been represented only once in every five biennial sessions, were given full-time representation.

Background -- Individual sections of the New Hampshire constitution were upheld in several state court decisions during 1962. In 1964, however, a challenge was filed in federal court. Although expressing doubt as to the constitutionality of the state's apportionment, the federal court deferred further action until adjournment of the state Constitutional Convention, which had convened May 13, 1964. On June 10, 1964, the Convention proposed new state constitutional provisions pertaining to Senate apportionment. Following the June 15 U.S. Supreme Court *Reynolds v. Sims* decision, the Convention reconvened for a single day and took similar action with regard to House apportionment. The new constitutional provisions were approved by voters Nov. 3, 1964.

NEW JERSEY -- The state's Constitutional Convention June 10, 1966, reached agreement on a new population-based apportionment with a 40-man Senate and 80-man Assembly. (The Senate currently had 29, the Assembly 60 members). The new plan, a compromise resulting from intense negotiations between Democratic and Republican leaders, provided for 15 basic districts (consisting of individual counties or groups of counties) which would each elect between one and six Senators on at-large basis -- a formula advocated by Democrats, which should assure them continued Senate control because of their over-all urban majorities. The same districts would be used for the Assembly, but must be subdistricted into districts with two Assemblymen each -- leaving suburban subdistricts of potential GOP strength, so that the Republicans would have a fighting chance to control the Assembly. The plan provided for a bipartisan, 10-member apportionment commission to effect the immediate subdistricting (in time for the 1967 legislative elections) and to draw both over-all districts and subdistricts in future years. The state's voters must approve the new plan in the November 1966 general election.

Background --The Senate currently was apportioned under a temporary plan adopted April 12, 1965, which replaced a previous one-Senator-a-county plan which was prized by rural groups but resented by large counties and cities. The state Supreme Court invalidated it in 1964, reversing former court decisions upholding the old formula. The House was apportioned on a modified population base in 1961. The Legislature May 20, 1965, issued the call for a constitutional convention to draft new apportionment formulas for both chambers.

NEW MEXICO -- A three-judge federal court March 17, 1966, rejected a New Mexico Legislature plan reapportioning the state Senate and, in its place, ordered its own Senate plan into effect at least for the 1966 elections. The Democratic-controlled Legislature's Senate plan was passed Feb. 16 and signed into law by Lt. Gov. Mack Easley (D) Feb. 24. The New Mexico House and Senate had both been reapportioned in 1965, the House on March 29 and the Senate on April 2. However, a proposed constitutional amendment authorizing the new Senate apportionment was rejected by voters on Sept. 28, 1965. The federal court's 1966 action has been appealed to the U.S. Supreme Court.

Under the court-imposed Senate plan, membership in the upper chamber was set at 42 Senators elected from 39 districts. The old method of apportionment provided for a Senate consisting of one member per each county, for a total of 32 members. Several of the multimember districts under the new plan were subdistricted but others would elect on an at-large basis. In addition, Senate representation for Bernalillo County (Albuquerque) was increased from one to 10 members. The old electoral percentage for the Senate was 14; the new percentage was 45.8.

Under the 1965 House plan, the lower chamber was reduced from 77 to 70 members elected from single- and multicounty districts. Multimember counties were required to subdistrict. Only nine of the 70 new House districts deviated in population by more than 15 percent. The plan raised the House's electoral percentage from 27 to 47.4.

Background -- Following *Baker v. Carr*, a state court ruled the apportionment of the New Mexico House unconstitutional. In 1963, the Legislature reapportioned the House, guaranteeing each county at least one member but giving each member a vote weighted according to the population of the county from which he was elected. In January 1964, the state court held the weighted voting formula unconstitutional but allowed the remainder of the 1963 plan to stand until the 1965 Legislature could reapportion.

Suit was filed in federal court in August 1964 challenging apportionment of the Senate, but the court also deferred action until after the 1965 legislative session had an opportunity to act.

NEW YORK -- The New York Court of Appeals March 22, 1966, ordered into effect for the November 1966 elections, "and thereafter until validly superseded," a plan reapportioning the state Legislature that had been drafted by a five-man bipartisan commission established by the court Feb. 23. The independent judicial commission was created to remap the state's legislative districts following failure of the Democratic-controlled Assembly and Republican-controlled Senate to meet a court-ordered deadline for legislating an acceptable apportionment compromise. The 1966 Legislature was elected Nov. 2, 1965, under a stopgap reapportionment plan enacted by a lame-duck, Republican-controlled Legislature in December 1964.

The commission's new reapportionment plan, which followed the "one-man, one-vote" guideline set by the U.S. Supreme Court, provided for a 150-member Assembly and 57-member Senate, with New York City receiving 65 Assembly and 26 Senate seats. The Legislature is currently composed of a 165-member Assembly and 65-member Senate, with New York City holding 75 Assembly and 30 Senate seats. Senators and Assemblymen under the new plan would continue to be elected from single-member districts, even in multimember counties. The new maximum population variation for the Senate would be 9.4

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percent, compared with 7.2 percent under the old plan, and for the House 10.3 percent, compared with 10.8 percent. In addition, the electoral percentage was changed from 49.4 to 49.1 for the Senate and from 49.3 to 49.2 for the House. Political observers agreed that the new plan would give Democrats an "excellent" opportunity to retain control of the Assembly but differed as to whether it would lead to a change in control of the Republican-held Senate.

In its order putting the legislative reapportionment plan into effect, the Court of Appeals, the state's highest court, also specified that the new district lines would govern the election of delegates to a state Constitutional Convention scheduled to convene in 1967. The Convention, to be composed of three delegates elected from each Senate district and 15 delegates elected at large, will have the option of drawing up a new reapportionment formula or of officially adopting the court-imposed formula.

Background -- The New York constitution used population as the principal basis for apportionment, but each of the state's 62 counties was guaranteed at least one seat in the Assembly, and there were some arbitrary provisions concerning Senate apportionment. Membership of the Assembly was limited to 150, but the Senate was set at 50 with a provision allowing for a larger number. Prior to *Baker v. Carr*, the Legislature had last been reapportioned in 1963.

Following *Baker*, a challenge to the New York apportionment was brought in federal court. The court upheld the apportionment, but on June 15, 1964, the U.S. Supreme Court, in *WMCA Inc. v. Lomenzo*, reversed that decision, ruling the apportionment unconstitutional and returning the case to the lower court. The lower court subsequently set an April 1, 1965, deadline for the Legislature to reapportion and directed that the old plan could stand for the 1964 elections but that a November 1965 election would have to be held under the new plan.

In a special December 1964 session, the lame-duck Republican Legislature enacted four temporary reapportionment plans, asking the federal court to determine which one was constitutional. On Jan. 26, 1965, the court voided three of the plans but upheld the fourth -- "Plan A" -- which it said met federal constitutional standards. The New York Court of Appeals April 14, 1965, however, ruled that Plan A violated the state constitution because it provided for a 165-member, rather than 150-member, Assembly. Subsequently, these actions occurred: the federal court May 10 and 24 reaffirmed its approval of Plan A; the Court of Appeals July 9 prohibited the holding of the November 1965 elections; the federal court July 13 again reaffirmed its previous decision, including its requirement for a 1965 election; and the U.S. Supreme Court Oct. 11, in a series of cases, upheld the federal court, allowing the 1965 elections to be held under Plan A.

In the meantime, the Court of Appeals set a Feb. 11, 1966, deadline (later extended to Feb. 23) for the Legislature to enact a valid reapportionment plan under both the federal and state constitutions. Failure of the Legislature to act by Feb. 23 resulted in the court's appointment of the independent commission to do the job.

NORTH CAROLINA -- A three-judge federal panel Feb. 18, 1966, approved separate North Carolina General Assembly plans reapportioning the state House and Senate on straight population bases. The reapportionment measures were enacted into law by a special session of the Democratic-controlled legislature Jan. 14. The General Assembly was under a Nov. 30, 1965, federal court order to reapportion before Jan. 31, 1966.

Under the new apportionment plans, the House and Senate would remain at 120 and 50 members, respectively, but the House was divided into 49 population-based districts and the Senate was divided into 33, rather than 36, population-based districts. Previously, the Senate was apportioned generally by population, but the House was apportioned on the basis of one member for each of the state's 100 counties, with the remaining 20 members allotted to the more heavily populated counties. One of the new House or Senate districts deviated in population by more than 15 percent. The new Senate included some multimember districts, and the new House included single- and multimember, multicounty districts, as well as multimember, single-county districts. Senators and Representatives from multimember districts were to be elected at large. The electoral percentage for the House was raised from 27.1 to 47.5 and for the Senate from 47.1 to 48.8. In over-all effect, the House plan greatly increased representation for the central state Piedmont area, a region of rapid industrial growth including North Carolina's four largest cities -- Charlotte, Greensboro, Winston-Salem and Raleigh. Set to lose strength in the General Assembly were the less populated Atlantic coastal and western mountain regions of the state. In recent years, the Piedmont had been increasingly frustrated by the old-South, conservative views and power exercised by the overrepresented coastal region areas in the Legislature.

Background -- The North Carolina House was last reapportioned in 1961 and the Senate in 1963. On Jan. 14, 1964, voters rejected a proposed constitutional amendment, adopted by the General Assembly in October 1963, that would have increased the size of the Senate from 50 to 60 members and put it on a strict population basis and that would have reduced the size of the House from 120 to 100 members apportioned one to each county. On Nov. 30, 1965, the federal court found the General Assembly to be unconstitutionally apportioned and set the Jan. 31, 1966, deadline for the enactment of a valid plan.

NORTH DAKOTA -- A three-judge federal court Aug. 10, 1965, rejected a North Dakota Legislative Assembly plan reapportioning the state House and Senate and, in its place, ordered its own plan into effect, at least for the 1966 elections. The court's plan was largely based on a formula devised by the state's Legislative Research Committee. The rejected plan had been passed by the Republican-controlled Senate and Democratic-controlled House March 5, 1965, and, being neither vetoed nor approved by Gov. William L. Guy (D), automatically became law July 1, 1965.

The court-imposed apportionment plan kept the Senate at 49 members but reduced the size of the House from 109 to 98 members. The plan also provided for 39, instead of 49, legislative districts -- some crossing county lines -- from which Senators and Representatives would be elected in a 1-to-2 ratio. One Senator and two Representatives would be elected from 34 of the districts, three Senators and six Representatives from three of the districts, (Grand Forks, Bismarck, Minot), two Senators and four Representatives from one district (Jamestown), and four Senators and eight Representatives from one district (Fargo). Members would be elected at large in all districts.

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The district with the greatest deviation in population was only 12.2 percent below the average size district. In addition, the new electoral percentage for the House would be 48.7, instead of 40.9, and for the Senate 48.7, instead of 31.9. Under the plan approved by the Legislature, the Senate would have been increased to 53 members and the House reduced to 106 members. The apportionment would also still have been based on 49 legislative districts, but five would have deviated from the average by more than 15 percent.

The court rejected the Legislature's plan principally on the grounds that certain population variations were too large. In addition, the court complained that the plan failed to "adhere to a policy of keeping legislative districts within existing county lines, or to maintain the integrity of various political subdivisions." (The plan had violated 16 county lines and numerous boundary lines of smaller subdivisions.)

Background -- North Dakota voters in 1960 approved a state constitutional amendment freezing the Senate at 49 districts, which had been set up in 1931, and providing for a House comprised of one member for each district or, where a district included more than one county, for each county, with the remainder of the House apportioned on a population basis. The House was last reapportioned under this formula in 1963. On July 27, 1964, the federal court invalidated the existing apportionment, directing the Legislature to enact a constitutional plan during its 1965 session.

OHIO -- A three-judge federal court Oct. 27, 1965, ordered into effect -- at least for the 1966 elections -- a "temporary" state Apportionment Board plan reapportioning the Ohio General Assembly along straight population lines. The three-member Board, all Republican in composition, consisted of Gov. James A. Rhodes, state Auditor Roger Cloud, and Secretary of State Ted W. Brown. It was asked to submit an acceptable plan to the court following failure of Ohio voters in 1965 to ratify a GOP-backed reapportionment amendment to the state constitution that had been adopted by a lame-duck GOP-controlled General Assembly in December 1964. In the face of Democratic opposition, the U.S. Supreme Court Feb. 21, 1966, in *Nolan v. Rhodes*, affirmed the lower court's Oct. 27 order without opinion.

Under the court-imposed plan, the House was reduced from 137 to 99 members and the Senate increased from 32 to 33 members. Members of both chambers would run from single-member districts, a controversial feature which aroused Democratic opposition because it would help Republicans win some seats in large cities where at-large elections could close them out. (In recent years, the entire House delegations from major cities have been elected at large.) Each of the 33 Senate districts would contain three contiguous House districts. In several instances, sparsely populated counties were grouped together and densely populated counties subdivided in the creation of the new districts. (The plan thus upset provisions of the state constitution ensuring each of the state's 88 counties at least one House member, a factor that contributed to GOP control in the past. The Senate was already generally apportioned on a population basis.) None of the new House or Senate districts deviated in population by more than 15 percent, with 14.2 percent the largest for the House and 9.9 percent the largest for the Senate. The new electoral percentages were 47.3, instead of the former 30.3, for the House and 49.6, instead of 44.7, for the Senate.

Background -- Apportionment of the Ohio General Assembly, which under the state constitution was supposed to be revised by the state Apportionment Board every 10 years, was first attacked in federal court in 1963. The court's decision upholding the apportionment was reversed by the U.S. Supreme Court June 22, 1964. On remand, the lower court Oct. 15 ruled invalid that section of the state constitution guaranteeing each county at lease one House member. The court, however, allowed the old plan to stand for the November 1964 elections but required the drafting of a valid House reapportionment plan in 1965. Meeting in special session, the Republican-controlled House and Senate Dec. 10, 1964, adopted a proposed constitutional amendment to revise the House apportionment scheme. Democrats and labor groups charged a GOP gerrymander, and on May 4, 1965, voters rejected the proposed amendment, causing the federal court on Sept. 16 to request the submission of reapportionment plans for both the House and Senate from the state Apportionment Board and other interested parties. On Oct. 18, the court officially ruled the state's Senate apportionment unconstitutional and on Oct. 27 handed down its order reapportioning both legislative chambers in accordance with the Apportionment Board's plan.

OKLAHOMA -- The Democratic-controlled Oklahoma Legislature enacted, and Gov. Henry Bellmon (R) July 24, 1965, signed into state law, a federal court plan reapportioning the state House and Senate in line with the U.S. Supreme Court's "one-man, one-vote" standard. The plan had originally been handed down by the federal court as a temporary measure governing the November 1964 elections.

The court-imposed plan, which, with certain modifications, followed new state constitutional guidelines approved by Oklahoma voters in mid-1964, provided for a Senate of 48 members elected from 33 legislative districts and a House of 99 members elected from 37 districts. Multimember, multicounty districts and multimember districts in populous counties were required to subdistrict. Oklahoma County (Oklahoma City) received 19 Representatives and nine Senators, Tulsa County (Tulsa) received 15 Representativea and seven Senators and Comanche County (Lawton) received four Representatives and two Senators. Three of the 48 Senators represented districts deviating by more than 15 percent from the average, with the largest deviation being 27.5 percent. None of the new House districts varied by more than 15 percent. The plan also raised the electoral percentage from 29.4 to 48.7 in the House and from 24.5 to 49.2 in the Senate.

Background -- Neither chamber of the Oklahoma Legislature had been significantly reapportioned since 1911, leaving control firmly in rural hands. On June 19, 1962, the federal court invalidated the apportionments of both houses, in effect nullifying the state law that each of the state's 77 counties was entitled to at least one and no more than seven House members, and directed the 1963 session of the Legislature to enact a valid apportionment. (A proposed constitutional amendment creating a commission to draft future reapportionment plans was adopted in November 1962 but was later set aside by the state Supreme Court.) On March 5, 1963, the Legislature enacted separate reapportionment plans for the House and Senate and also adopted a constitutional amendment providing new guidelines for future reapportionment action. The plan was still

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weighted in favor of rural areas. The federal court July 17, 1963, ruled the new plans passed by the Legislature unconstitutional and substituted its own plan (drawn up for it by an Oklahoma housewife with a political science background) to cover the 1964 elections. Oklahoma voters May 26, 1964, ratified the constitutional amendment proposed by the Legislature in 1963. On June 22, 1964, the U.S. Supreme Court, in *Williams v. Moss*, affirmed the lower court's July 17, 1963, action. On remand, the lower court revised its 1963 plan in light of the Supreme Court's *Reynolds v. Sims* decision and of those portions of the new state constitutional amendment which the court considered valid. The remainder of the constitutional amendment was disapproved.

OREGON -- The Oregon Legislative Assembly (legislature) was voluntarily reapportioned on the sole basis of population in 1961 by the Secretary of State. . The apportionment was governed by terms of a constitutional amendment adopted in 1952. The 1961 plan set the electoral percentage at 47.8 for the 30-member Senate and at 48.1 for the 60-member House. Several of the Senate and House districts deviated by more than 15 percent. In addition, several "floterial" districts were created. In Oregon's case, these were districts in which two or more counties with separate representation were combined for additional, at-large representation. The plan has not been challenged.

In 1965, the Democratic-controlled Legislative Assembly enacted a measure providing for the election of members in multimember districts by position.

PENNSYLVANIA -- The Pennsylvania Supreme Court Feb. 4, 1966, by a 5-2 vote, ordered into effect -- at least for the 1966 elections -- its own plan reapportioning both chambers of the state General Assembly on a straight population basis. The court's action, which was undertaken without public hearings, followed failure of the Republican-controlled Senate and Democratic-controlled House to reach an acceptable reapportionment compromise by a court-ordered deadline. Both Republican and Democratic members of the General Assembly decried the Court's plan as politically motivated, and a citizens' group appealed the order in federal court.

Under the new apportionment plan, the Senate remained at 50 members elected from single-member districts, but the House was reduced from 200 members elected from 155 single- and multimember districts to 203 members, all elected from single-member districts. While representation in terms of the number of Senators and Representatives for individual constituencies did not change significantly from that provided under a temporary plan governing the 1964 elections, district lines were widely changed under the new plan to reflect better a "one-man, one-vote" apportionment. For example, whereas numerous Senate and House districts under the 1964 plan deviated in population by considerably more than 15 percent, the largest single deviation under the new plan would be 9.8 percent in the Senate and 15.3 percent in the House. Moreover, the new plan raised the electoral percentage from 43.4 to 50.1 for the Senate and from 42.7 to 47.0 for the House. In addition, the court ordered that all legislators, including Senators elected to four-year terms in 1964, would have to stand for election in 1966. Half of the Senate would be elected for two-year terms and half for four-year terms.

In dissenting from the court's plan for both chambers, one justice, Michael A. Musmanno, complained, "As I survey the terrain mapped out by the majority of this court, I see marshes of inequality, swamps of uncompactness, bogs of invidious descrimination and barren wastes of unconstitutional performance."

Background -- Prior to enactment of the temporary plan for the 1964 elections, the Pennsylvania Senate was last reapportioned in 1921 and the House in 1953. Following the U.S. Supreme Court's 1962 *Baker v. Carr* decision, several challenges to the state's apportionment were registered, but both the federal and state courts deferred action, giving the 1963 session of the legislature an opportunity to reapportion. The General Assembly reapportioned Dec. 9, 1963, during a special session. On April 9, 1964, a federal court held the 1963 plan unconstitutional; on Sept. 29, the state Supreme Court also declared the 1963 plan unconstitutional but allowed the 1964 elections to be held under the plan and set a Sept. 1, 1965, (later extended) deadline for the General Assembly to come up with a valid reapportionment plan. On Nov. 16, 1964, the U.S. Supreme Court, in *Scranton v. Drew*, vacated the decision of the lower federal court, in effect upholding the state Supreme Court's jurisdiction over the reapportionment issue.

RHODE ISLAND -- The Rhode Island General Assembly during the first week of May 1966 overrode gubernatorial vetoes of separate plans reapportioning the state House and Senate on a straight population basis for the 1966 elections. The plans had been passed by the Democratic-controlled General Assembly in April but vetoed by Gov. John H. Chafee (R) May 4 and 5 on the grounds that the newly created districts did not meet a state constitutional requirement of compactness. The new plans were temporary in that they would remain in effect only until the state Constitutional Convention currently in session clears a permanent apportionment formula for voter approval.

Under the new plans, the Senate would be set at 50 and the House at 100 single-member districts. Under the old method of apportionment, the Senate was comprised of 46 members and the House of 100 members. Membership in both chambers was based generally on population, but each of the state's cities and towns was guaranteed at least one Senator and one Representative. Multimember communities were also required to be subdistricted. One interesting effect of the new plan was to reduce House representation for the city of Providence from 25 to 22. For most of the state's other communities, however, representation would increase. The old electoral percentages were 46.5 for the House and 18.1 for the Senate. The new electoral percentages were not yet available.

Background -- Prior to the 1966 action, apportionment of the Rhode island General Assembly was governed by the state's 1909 constitution, as amended in 1928. Following *Baker v. Carr*, suits were filed challenging the makeup of the House in state and federal courts, but both deferred action, allowing the 1963 Legislature to act. In 1963, the General Assembly passed a reapportionment act and a proposal calling for the holding of a constitutional convention. Subsequently, Gov. Chafee vetoed both measures, but the General Assembly overrode the veto of the Constitutional Convention proposal, which was later ratified by voters Nov. 3, 1964. The convention convened Jan. 11, 1965.

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SOUTH CAROLINA -- A three-judge federal court Feb. 28, 1966, approved for the 1966 elections a South Carolina General Assembly plan reapportioning the state Senate on a strict population basis. The 1967 legislative session must reapportion the Senate again. The temporary plan, along with an alternate measure which the court was asked to consider, was passed by the Democratic-controlled General Assembly Feb. 2 and signed into law by Gov. Robert E. McNair (D) Feb. 3. The court found the alternate plan, favored by rural interests, to be invalid. In addition, the court's Feb. 28 order upheld the current apportionment of the 124-member state House.

Under the new Senate apportionment plan, the upper chamber would be comprised of 50 members elected from 27 single- and multicounty election districts instead of 46 members elected one for each of the state's 46 counties. The over-all effect of the new plan was to increase urban representation at the expense of rural regions of the state. For example, Richland (Columbia), Greenville (Greenville) and Charleston (Charleston) Counties would each receive four Senators instead of one. Only four of the new districts deviated in population by more than 15 percent; the electoral percentage for the Senate was raised from 23.3 to 48.

In its order implementing the 50-member plan, the court required Senators to be elected in 1966 for only two-year terms, rather than for the normal, staggered four years. The court also questioned the so-called "negative residency" clause of the new plan without invalidating it. The clause guaranteed a resident Senator to certain small counties in multicounty, multimember districts. The court indicated it might not accept such a clause in the future.

Background -- Apportionment of South Carolina's Senate was governed by the state's constitution of 1895. The constitution also provided for a decennial reapportionment of the 124-member House. Membership in the House was to be apportioned among the counties according to population, with each county guaranteed at least one Representative. The House was last reapportioned following the 1960 census. Currently, the House's electoral percentage is 46.2.

On Dec. 3, 1965, the federal court ruled the Senate apportionment unconstitutional, setting an April 1, 1966, deadline for the legislature to enact a valid plan. (The House's apportionment was not challenged until January 1966.) The General Assembly convened in special session Dec. 13 but adjourned Jan. 10, 1966, without reaching a compromise on an acceptable Senate plan. Reconvening in regular session Jan. 11, the legislature finally came up with a valid measure, but not before a lengthy Senate filibuster also forced the General Assembly to approve the alternate plan backed by small county interests. Both plans were submitted to the court.

SOUTH DAKOTA -- The Republican-controlled South Dakota Legislature March 13, 1965, passed and Gov. Nils Boe (R) March 16 signed into law a plan reapportioning both the state House and Senate in accordance with the U.S. Supreme Court's "one-man, one-vote" standard. Revision in the 1961 apportionment of the state Legislature was made despite the fact that there had been no court action instituted.

Under the new apportionment, the Senate remained at 35 members and the House at 75 members. Senators, however, would be elected from 26 single-member and three multimember districts, instead of from 33 districts, and Representatives would be elected from 17 single-member and 22 multimember districts, instead of from 55 districts. Only three House and two Senate districts under the new plan deviated by more than 15 percent from the state's average district population. Under the old plan, 17 Senators and 44 House members represented areas deviating by more than 15 percent. The new plan raised the electoral percentage from 38.5 to 46.7 in the House and from 38.3 to 47.1 in the Senate.

Background -- The South Dakota constitution provides for a Senate of between 25 and 35 members and for a House of between 50 and 75 members. Membership in both chambers is theoretically based on population, and reapportionment is required after each federal census.

TENNESSEE -- Culminating years of struggle in Tennessee to end rural domination of the state General Assembly, a three-judge federal court Nov. 15, 1965, approved a plan reapportioning the state House and Senate along strict "one-man, one-vote" guidelines. Required to be enacted by a court-imposed deadline of June 1, 1965, the plan had been passed by the Democratic-controlled Legislature and signed into law by Gov. Frank G. Clement (D) May 28, 1965. A section of the new Senate apportionment requiring subdistricting of the state's multimember urban counties was challenged in the Tennessee courts, however, and the state Supreme Court May 16, 1966, sustained the challenge, ordering at-large elections in those counties, Davidson (Nashville), Hamilton (Chattanooga), Knox (Knoxville) and Shelby (Memphis). The ruling was a blow to Republican hopes of capturing more than the eight Senate seats they currently hold and to the hopes of Negroes for electing members of their race to the Senate. A similar House subdistricting provision in the reapportionment plan for that chamber was not challenged and thus will stand.

The new plan kept the size of the House and Senate at 99 and 33 members, respectively, but revised district lines to increase urban representation. Senators would be elected from single-member districts and Representatives would be elected from one- and two-member districts. Thus, the state's four multimember urban counties were subdistricted, but as a result of the state Supreme Court ruling, for House elections only. The plan also created several different types of "floterial" districts for the House. Only two Senate and two House districts deviated by more than 15 percent from the state district average. Under terms of the state's constitution, both the House and Senate had been apportioned on the basis of the number of "qualified voters" (those persons 21 years old and over). Using "qualified voters" as a yardstick, the new electoral percentage for the House was 48.4, instead of the former 44.5, and for the Senate 49.1, instead of 39.7.

Background -- Prior to 1962, the Tennessee General Assembly was last reapportioned in 1901. In 1959, a suit challenging the state's apportionment was argued before a federal panel in Tennessee, but the court dismissed the complaint on the grounds that it did not possess jurisdiction. On appeal, the U.S. Supreme Court, in its historic *Baker v. Carr* decision, in March 1962 reversed the lower court, holding that the court did have jurisdiction and that the question of reapportionment was justiciable. Convening in special session, the Legislature June 7, 1962, reapportioned both chambers and proposed the calling of a constitutional convention in 1965, which voters approved Nov. 6, 1962. On June 22, however, the federal court invalidated the new

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reapportionment plan because of continued population inequalities. The court allowed the plan to stand for the 1962 elections but required the Legislature to enact a valid reapportionment plan by June 3, 1963. The 1963 legislative session reapportioned again, but the court Oct. 10, 1963, only upheld provisions revising the House's apportionment. Again, it found Senate districts too unequal. Following *Reynolds v. Sims*, the court in 1964 set aside the 1963 House plan and substituted its own House and Senate plan, which was to become effective June 1, 1965, in the event the 1965 session of the General Assembly again failed to enact a valid plan. The 1963 plan had been permitted to stand for the 1964 elections.

The 1965 constitutional convention completed its work Dec. 10, referring to the voters in the November 1966 elections several alternative apportionment plans to that adopted by the General Assembly in 1965.

TEXAS -- A three-judge federal panel Feb. 2, 1966, approved separate Texas Legislature plans reapportioning the state House and Senate on straight population basis. The measures were passed by the Democratic-controlled Legislature in late May and signed into law by Gov. John B. Connally (D) June 9, 1965. The court decision *(Kilgarlin v. Martin)* upheld the plans for the 1966 elections but required the Legislature, by Aug. 1, 1967, to eliminate "floterial" House districts, which the court said deviated too much from the population of nonfloterial districts. In addition, the court dismissed certain other complaints against the House plan, including objections that it diluted the votes of Negroes and that it was drafted with partisan gerrymandering in mind.

Under the new plans, the Senate and House remained the same size as provided by the state constitution: 31 and 150 members, respectively. Senators would be elected from 31 single-member districts and Representatives from 86 single- and multimember districts. Eleven of the 86 House districts are floterial districts. All multimember districts (including large metropolitan areas), would elect their House members at large, but by position. Only three Senate members and 24 House members would represent areas deviating by more than 10 percent from the average district population. The largest Senate deviation would be 10.6 percent, and the largest House deviation would be 14.4 percent. The new electoral percentage for the Senate would be 49.4, instead of the old 30.3, and for the House 47.0, instead of 38.7. Urban areas under the plan would win greater representation in both chambers, ending a long era of rural domination. For example, Harris County (Houston) received four Senators and 19 Representatives, and Dallas County (Dallas) received three Senators and 14 Representatives.

Background -- The Texas Constitution provides that no county may receive more than one Senator or seven Representatives, unless its population exceeds 700,000, in which case it would be entitled to an additional Representative for each 100,000 persons over the 700,000 ceiling. The Senate and House were last reapportioned on this basis in 1961. On Dec. 16, 1964, the federal court ruled the 1961 apportionment unconstitutional because of continuing population inequalities. The court set an Aug. 2, 1965, deadline for the Legislature to enact a valid reapportionment. The Legislature responded during its 1965 session and, at the same time, proposed a constitutional amendment to increase the size of the Senate from 31 to 39 members. The amendment was rejected by Texas voters Sept. 7, 1965.

UTAH -- A three-judge federal court July 3, 1965, approved a plan reapportioning both chambers of the Utah Legislature along "one-man, one-vote" guidelines. The plan was passed by the Democratic-controlled Legislature March 11, 1965, and signed into law by Gov. Calvin L. Rampton (D) March 18. The court upheld all aspects of the plan except a provision preserving the four-year terms of Senators elected in 1964. The court directed that the entire Legislature stand for election in 1966.

The new apportionment scheme kept the state House at 69 members but increased the size of the Senate from 27 to 28 members. Senators would be elected from 28 single-member districts, rather than the old 18 single- and multimember districts, and Representatives would be elected from 69 single-member districts, rather than from the old 29 single- and multimember, single-county districts. Eleven Senators and 10 Representatives would be elected fron districts deviating from the average district population more than 15 percent. The plan raised the electoral percentage from 37.7 to 47.6 in the House and from 25.3 to 44.5 in the Senate. Representation for Salt Lake County (Salt Lake City) increased from six to 11 Senators and from 24 to 28 Representatives.

Background -- The Utah Legislature last reapportioned in 1963 under terms of the state constitution, which provides for a generally population-based apportionment with each of the 29 counties guaranteed at least one Representative. On Sept. 12, 1963, the federal court invalidated the Legislature's reapportionment action, permitting the plan to stand for the 1964 elections but directing the 1965 legislative session to come up with an acceptable and constitutional plan.

VERMONT -- A three-judge federal court June 24, 1965, approved separate Vermont General Assembly plans reapportioning the state House and Senate on a temporary basis and providing new procedures governing future reapportionments. The measures were passed by the Republican-controlled Legislature during late May and early June and signed into law by Gov. Philip H. Hoff (D) June 17, 1965. The General Assembly was under court order to reapportion by July 1. On July 15, the court directed a special election to be held under the new temporary plan Nov. 23, 1965. The election resulted in Republicans (who had suffered severe losses in 1964 because of that year's state Democratic sweep) increasing their control in both chambers. The entire General Assembly again must stand for election under the temporary plan in November 1966.

As used in the Nov. 23 election, the General Assembly's temporary plan kept the Senate at 30 members but reduced the House from 246 to 150 members. Senators were elected from 12 single- and multicounty districts, instead of from 14 single-county districts, and Representatives were elected from 72 districts made up of cities and towns, instead of from each of the state's 246 cities and towns. Multimember districts were subdistricted. Four of the 30 Senators were elected from districts deviating by more than 15 percent from the average district population. None of the House districts deviated by that much. The plan raised the electoral percentage for the House from 11.6 to 48.7 and for the Senate from 47 to 48.8.

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Under the new procedures adopted for future reapportioning, which would not go into effect until the 1970s, the Senate and House would be apportioned on the same basis as under the temporary plan described above, with the Senate having 30 members and the House 150 members. However, future reapportioning would be done by a bipartisan commission, which would submit its plans to the General Assembly for final approval or revision. Also, as was the case under the temporary plan, the Senate would continue to be apportioned on the basis of total population and the House on the basis of "legal voters." In its June 24, 1965, decision, the federal court held that the use of registered voters for the basis of House apportionment was constitutional. *(For U.S. Supreme Court decision on the use of registered voters in Hawaii, see above.)*

Background -- The Vermont House since 1792 had been apportioned on the basis of one Representative (and no more) for each of the state's towns and cities. The Senate, in which each county is guaranteed at least one member, was last reapportioned in 1962. On July 10, 1964, the federal court ruled the current apportionment unconstitutional. Subsequently, the court permitted the 1964 elections to be held under the 1962 plan but directed the General Assembly to enact a valid reapportionment before July 1, 1965.

VIRGINIA -- A three-judge federal court April 9, 1965, approved, with certain modifications, a Virginia General Assembly plan reapportioning the state House and Senate on a straight population basis. The plan was enacted under a court-ordered deadline by a special session of the Democratic-controlled General Assembly Dec. 1, 1964, and signed into law by Gov. Albertis S. Harrison Jr. (D) Dec. 2. The lower court's modifications in the original plan were affirmed by the U.S. Supreme Court Oct. 25, 1965, in *Burnett v. Davis*. A special election was held under the new plan Nov. 3, 1965. The entire membership must again stand for election in November 1967.

The new apportionment plan kept the Senate and House at 40 and 100 members, respectively, but required Senators to be elected from 33, instead of 36, districts, and Delegates to be elected from 63, instead of 70 districts. Members from multimember districts ran at large. In addition, a number of the new districts, like the old, were "floterial." Two Senate and 12 House districts deviated by more than 15 percent from the average district population. By increasing General Assembly representation in the heavily populated northern (Washington suburbs) and southeastern (Norfolk-Portsmouth) regions of the state, the plan raised the electoral percentage from 40.5 to 47.7 in the House and from 41.1 to 48 in the Senate.

The court's only modification in the General Assembly's plan was to revise one of the floterial districts. The court dismissed all other complaints, including one made by a group of Negroes who contended that the creation of an eight-member House district in the Richmond area diluted their voting power.

Background -- The Virginia constitution simply sets the number of Senators and Delegates that can be elected, leaving the method of apportionment to the determination of the General Assembly. Both chambers were last reapportioned in 1962. On Nov. 28, 1962, the federal court held the legislature's apportionment unconstitutional. The U.S. Supreme Court affirmed the ruling on June 15, 1964, and on remand, the lower court Sept. 19, 1964, directed the convening of a special session to come up with a valid plan. A special session was convened Nov. 6. Besides enacting a new plan, the legislature also authorized the Governor to call the special 1965 election.

WASHINGTON -- A three-judge federal court March 9, 1965, approved a Washington Legislature plan reapportioning the state House and Senate on a more equitable population basis. The plan was passed by the Democratic-controlled Legislature and signed by Gov. Daniel J. Evans (R) Feb. 26. Intense partisan sparring between Evans and the Democrats controlling the Legislature had resulted in two gubernatorial vetoes before passage of the compromise plan, under which the GOP would have a fighting chance to win control of at least the House in the 1966 elections. The Legislature was under court order to reapportion during its 1965 session.

Under the new apportionment plan, the Senate remained at 49 members and the House at 99 members. Senators, as required by the state constitution, would be elected from single-member districts and Representatives, for whom the constitution does not provide a method of apportionment, would be elected from 56 single- and multimember districts. Members in multimember House districts would be elected at large but by position. Four Senators and 12 Representatives under the new plan would represent districts deviating by more than 15 percent from the state average district population. The plan increased representation in the densely populated Puget Sound area and raised the electoral percentage from 28 to 46.7 for the House and from 35.6 to 47.6 for the Senate. Of the 49 Senators, 24 who were elected to four-year terms in 1964 would not have to stand for election in 1966.

Background -- The Washington Legislature had not reapportioned of its own volition since 1901. The Legislature was reapportioned by initiative, however, in 1930 and 1956. (The rural-controlled Legislature actually amended the 1956 initiative measure, after its approval by the voters, to maintain small county control.) Following *Baker v. Carr*, the federal court Dec. 13, 1962, ruled Washington's apportionment invalid but deferred further judicial action, giving the 1963 legislative session an opportunity to reapportion. The 1963 Legislature failed to act. In a series of orders during the last half of 1964, the court permitted the 1964 elections to be held under the old plan but required the 1965 Legislature to reapportion under threat of the court limiting to one year the terms of legislators elected in 1964.

WEST VIRGINIA -- A special session of the Democratic-controlled West Virginia Legislature Feb. 15, 1964, passed and Gov. W.W. Barron (D) Feb. 17 signed into law a plan reapportioning the state House and Senate on a strict population basis. The Legislature was forced to act after the state Supreme Court Feb. 7 declared a provision of a 1963 reapportionment plan guaranteeing each of the state's 55 counties at least one House member in violation of the state constitution. The constitution provides for a population-based Legislature without a one-member-per-county guarantee. The new 1964 plan has not been challenged. It was used for the 1964 elections, when Democrats retained control of the Legislature by a wide margin, and will stand for the 1966 elections and thereafter unless revised.

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Under the new plan, the Senate was increased from 32 to 34 members elected from 17, rather than 16, two-member districts. The new senatorial district was given to Kanawha County (Charleston). The House was kept at 100 members, but new districts were drawn to reflect better a "one-man, one-vote" apportionment. The new apportionment thus provided for seven House districts covering 15 counties, with the remainder of the state's 40 counties constituting individual districts. Senators and Delegates representing multimember districts run at large. Twelve of the 34 Senators and 21 of the 100 Delegates represent districts deviating from the average district population by more than 15 percent. The plan kept the electoral percentage for the Senate at 46.7 but increased the percentage for the House from 40 to 46.2.

Background -- Prior to the 1963 act, which failed of court approval, the Legislature was last reapportioned in 1951.

WISCONSIN -- The Wisconsin Supreme Court May 25, 1964, ordered into effect its own population-based plan reapportioning the state Senate and Assembly. The plan was drafted by the court May 14 following failure of the state's Republican-controlled Legislature and then-Gov. John W. Reynolds (D) to agree on a measure by the court-ordered deadline of May 1. The court declared its plan effective for the 1964 elections "and thereafter until such time as the Legislature and Governor have enacted a valid legislative apportionment plan." During the 1965 legislative session, several reapportionment bills were introduced, but none was enacted. The court's plan thus stands for the 1966 elections.

Under the court-imposed plan, the Senate was kept at 33 single-member districts and the Assembly at 100 single-member districts, but boundary lines were redrawn to increase urban representation slightly. For example, Milwaukee County (Milwaukee) -- the state's largest with a 1960 population of slightly more than 1 million -- received 25, instead of 24, Assembly seats and 8-1/3, instead of 8, Senate seats. Only one of the 33 Senate districts and 27 of the 100 Assembly districts deviated by more than 15 percent from the average district population. The greatest deviation in the Senate is 16 percent and the greatest in the Assembly 43.7 percent. The plan raised the electoral percentage from 40 to 45.4 for the Assembly and from 42.5 to 48.4 for the Senate.

The reapportionment was expected to help the Republicans; but in the 1964 elections Democrats gained control of the Assembly, while Republicans retained control of the Senate and captured the Governorship.

Background -- The Wisconsin constitution sets the limits on the Legislature's membership and requires Senators and Assemblymen to run from single-member, population-based districts. The Legislature was last re apportioned under this formula in 1951. Following a court challenge instituted in 1962, the Republican-controlled Legislature passed reapportionment plans in 1962 and 1963, but both were vetoed by Democratic Governors -- in 1962 by Gaylord A. Nelson (1959-63) and in 1963 by Reynolds (1963-65). After the 1963 veto, the Legislature again reapportioned, but by resolution, which did not require the Governor's signature. On Feb. 28, 1964, however, the state Supreme Court voided the 1963 plan, stating that reapportionment could not be done by resolution, and set a May 1, 1964, deadline for the enactment of a valid plan. Subsequently, the Legislature again passed and Reynolds again vetoed a reapportionment measure. Reynolds had put the Legislature on notice that he would not approve a plan giving Milwaukee less than 26 Assembly seats. The Legislature's plan, like the final court-imposed plan, gave Milwaukee only 25 Assemblymen.

WYOMING -- A three-judge federal panel Oct. 8, 1965, reapportioned the Wyoming Senate by "one-man, one-vote" standards. The court action came after the 1965 session of the Republican-controlled Senate and Democratic-controlled House failed to revise Senate districts. Senate reapportionment had been ordered by the court Nov. 24, 1964, when it upheld provisions of a 1963 plan reapportioning the House but rejected provisions governing Senate apportionment. The U.S. Supreme Court Feb. 28, 1966, in *Harrison v. Schaefer*, affirmed the lower court's 1965 action without opinion, in effect rejecting a challenge to that portion of the lower court order which authorized at-large elections for Senators in multimember districts.

Under the court-imposed Senate plan, membership in the upper chamber was increased from 25 elected from 23 single-county districts to 30 elected from 17 single- and multicounty districts. Only seven Senators under the new plan would represent districts deviating from the average district population by more than 15 percent, compared with 22 Senators under the old plan. The new electoral percentage for the Senate would be 47.4, instead of 24.1. Under the previous setup, Senate representation for the state's two most populous counties -- Laramie (Cheyenne) and Natrona (Casper) -- increased from two to five members and from two to four members, respectively.

Under the 1963 plan reapportioning the House, the lower chamber's membership was increased from 56 to 61 elected from 23 single-county districts. Only 12 Representatives were from districts deviating by more than 15 percent from the average district population. The House's new electoral percentage was 46.5, instead of the old 35.8.

Background -- Prior to the 1963 act, the Legislature was last reapportioned in 1933.

CORRECTIONS

(For previous corrections, see Weekly Report p. 1255.)

Page 735, Col. 1 -- In the fourth paragraph, the vote on the recommittal motion should be 157-233 (not 232).

Page 738, Col. 1 -- In the first paragraph the page number of the vote chart should be p. 778 (not 788). In the third paragraph, line 3, the figure should be $3 billion (not million).

Page 740, Col. 2 -- At the bottom of the column, in the paragraph headed "Background," March 31 should be given as the date of the President's letter to Speaker McCormack.

Page 1143, Col. 1 -- In the next to last line under "Major Provisions," the total figure should be $3,333,000,000 (not $3,333,000).

Page 1225, Col. 2 -- In the box on antipoverty funds, the figures in the second column (under HR 15111) should read: Narcotic Rehabilitation, 12.5 (not 8); Other, 323 (not 12.5).

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NEW YORK PRIMARY OUTLOOK

New York will hold its Congressional primary June 28. Gubernatorial nominations for both major parties will be made at state conventions Sept. 7-8.

U.S. HOUSE. In two districts, conservative Republicans, who lost their House seats in 1964 after becoming closely identified with Republican Presidential nominee Barry Goldwater, are seeking comebacks. The Democratic organization in New York City faces several "reform" challenges. There are nine "peace" candidates seeking Democratic nominations, although several may be ruled off the primary ballot by the courts. Races of interest:

3rd District (North Nassau County -- Mineola, Port Washington, Oyster Bay) -- U.S. policies in Viet Nam are a major issue in both partys' primaries. Freshman Rep. Lester L. Wolff (D), 47, may or may not face "peace" candidate Stanley Millet, a Hofstra University professor opposed to U.S. policies in Viet Nam. The Nassau County Board of Elections has challenged the right of Millet to file for the seat since he is not a resident of the 3rd District nor a registered voter in any district. A court decision is expected sometime before the primary date. Wolff supports President Johnson's policies in Viet Nam but was opposed to the resumption of the bombing of North Viet Nam.

On the Republican side, former Rep. Steven B. Derounian (1953-65), 48, and wealthy attorney William J. Casey, 52, are engaged in a tight contest for the nomination to oppose Wolff. Derounian was one of the few New York Republicans to support Barry Goldwater for the 1964 GOP Presidential nomination. He seconded William E. Miller's nomination for Vice President. Wolff, benefitting from the Democratic landslide, defeated Derounian by 2,620 votes (50.7 percent).

Casey has sought to portray Derounian as a Goldwater supporter who had lost once in a safely Republican district and was almost certain to lose a second time. Casey reportedly has spent $100,000 on his campaign for the nomination. In a radio commercial which has appeared more than 200 times on seven stations, voters are told: "Don't back a loser. It's a choice between two brands of Republicanism, Steve Derounian's 'let's look back' antiquated Republicanism that sustained its biggest defeat in 1964, or Bill Casey's 'look ahead' Republicanism." Casey is a law partner of former Republican National Chairman Leonard W. Hall, who represented the area in Congress from 1939 to 1952.

Casey spent 10 days in Viet Nam during late April and early May. On his return, he proposed that Peace Corps members be sent to Viet Nam, that the Viet Cong be offered amnesty and that the Viet Cong be included in elections "provided they cease their aggression and violence." Casey is also opposed to a U.S. blockade of the North Viet Nam port of Haiphong.

Derounian March 3 won the endorsement of the Republican district designating convention by a 3-1 margin over Casey. He denies that his 12-year record in the House was reactionary and points to his support of the 1964 Civil Rights Act, the United Nations bond bill and the 1962 Trade Expansion Act. He has called for an immediate blockade of Haiphong and says Congress should investigate an alleged shortage of bombs in Viet Nam.

A private poll taken for Casey gave Derounian 50.5 percent of the vote to Casey's 49.5 percent in early June. The bitterness of the Republican primary, observers feel, has increased Wolff's chances of winning re-election.

7th District (Queens -- Southwest, Central) -- Rep. Joseph P. Addabbo (D), 41, is strongly favored to turn back the challenge of a "peace" candidate, the Rev. James D. Watson, in this solidly Democratic district.

11th District (Brooklyn -- East) -- Rep. Eugene J. Keogh (D), 59, did not seek re-election. Assistant Brooklyn District Attorney Frank J. Brascoe (D) has organization support and is the favorite to succeed Keogh in this safely Democratic district. Brascoe faces opposition for the nomination from Ray H. Williams, a Negro, and one Stanley J. Kaufman. The district is 24-percent Negro.

12th District (Brooklyn -- East Parkway Section) -- Rep. Edna F. Kelly (D), 60, is heavily favored to defeat labor attorney Eugene Victor, who heads the Brooklyn Democratic "reform" groups. Mrs. Kelly defeated Victor in 1964 with 74.6 percent of the vote. Victor has accused Mrs. Kelly of blocking House consideration of a resolution condemning anti-Semitism in the Soviet Union. He has also attacked Mrs. Kelly for voting against an amendment which would have denied commodity aid to the United Arab Republic.

13th District (Brooklyn -- Southwest) -- Rep. Abraham J. Multer (D), 65, faces a well financed challenge from "reform" and "peace" elements. They have backed wealthy manufacturer Melvin Dubin, 42, who was unsuccessful in a 1965 bid for New York City Controller on the citywide "reform" ticket headed by U.S. Rep. William F. Ryan (D). Dubin recently held a "Bagels and Lox with Dr. Benjamin Spock" rally. Dr. Spock is a critic of U.S. policies in Viet Nam. Dubin favors direct negotiations with the Viet Cong and a unilateral cease-fire by the United States.

Multer, a supporter of U.S. policy in Viet Nam, says, "Viet Nam is a phony issue. Dubin gives the impression he can bring our boys home from Viet Nam, but I'd personally pay his fare over there if he could bring one boy home."

Dubin's campaign has been an unabashed appeal to the three out of every four voters in the district who are Jewish. Dubin's campaign materials are all printed on pastel blue paper, the same color as the Israeli flag. Multer's vote against the amendment forbidding commodity sales to the United Arab Republic has been made an issue by Dubin.

Multer says, "Dubin's spending money like water, but I don't consider him a serious candidate. He's annoying... pretending I'm anti-Semitic, anti-Israel and pro-Arab." (Multer is Jewish himself.) Multer has also denied charges by Dubin that he had used his Congressional office for personal profit. Multer is the second-ranking Democrat on the House Banking and Currency Committee. Dubin says, "I am a businessman who wants to become a Congressman. Mr. Multer is a Congressman who wants to become a businessman."

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17th District (Manhattan -- East Side) -- Freshman Rep. Theodore R. Kupferman (R), 46, elected Feb. 8, 1966, to succeed New York City Mayor John V. Lindsay (R), is unopposed for nomination to a full term. Favored to win the Democratic nomination is state Sen. Jerome L. Wilson (D), a "reform" and "peace" candidate with organizational backing. His opposition comes from Peter A. A. Berle, who also has ties to some "reform" groups. Kupferman is favored to win the general election over either candidate.

19th District (Manhattan -- Lower East and West Sides) -- Rep. Leonard Farbstein (D), 64, is once again opposed by "reform" elements in his district. They have clustered around New York City Councilman Theodore S. Weiss, who also has received the backing of several "peace" groups. Although Farbstein's record in the House is solidly liberal, "reformers" in the district have tried repeatedly to defeat him because of his ties to what they call the "bosses." Farbstein is favored to win renomination.

22nd District (Bronx -- Southeast) -- "Reformers" will try to finish the job they started in 1964 when they captured two Bronx districts, the 21st and 23rd, from the Democratic organization -- including the 23rd District seat of the boss himself, former Rep. Charles A. Buckley (D 1935-65), 76. Rep. Jacob H. Gilbert (D), 46, a Buckley lieutenant, is opposed by Nathan Strauss, brother of R. Peter Strauss, president of radio station WMCA and Democratic "reform" leader. To split the anti-organization vote in the district, the Buckley organization was reportedly instrumental in persuading four political unknowns -- Joseph A. Lanbriel, Erma Vidal Santaella, Roberto Lebron and T. George Silcott -- to file for the Democratic nomination.

26th District (Westchester County -- White Plains, New Rochelle) -- Rep. Ogden R. Reid (R), 41, a liberal, is unopposed for renomination. Favored to win the Democratic nomination is Joseph L. Hutner, a White Plains attorney with organizational support. Opposing Hutner for the nomination is "peace" candidate Leslie A. Robert of New Rochelle, a Negro labor union organizer.

27th District (Southeast -- Newburgh) -- Freshman Rep. John G. Dow (D), 61, is unopposed for renomination. Former Middletown Mayor Louis V. Mills (R), an insurance man, is a slight favorite to win the Republican nomination. Providing strong opposition to Mills, however, is Newburgh attorney Martin B. McKneally, who was counsel to the New York World's Fair. McKneally, a past national commander of the American Legion and militant anticommunist, has taken a hard line on Viet Nam. Mills has taken a more moderate position on the war. A third candidate for the Republican nomination is Joseph J. Eley of New City.

28th District (Southeast -- Poughkeepsie, Kingston) -- Freshman Rep. Joseph Y. Resnick (D), 42, is unopposed for renomination. Seeking the Republican nomination are two liberal Republicans -- Alexander Aldrich, 38, a cousin of New York Gov. Nelson A. Rockefeller (R), who resigned as Rockefeller's $27,000-a-year executive assistant; and Hamilton Fish Jr., 39, son of former U.S. Rep. Hamilton Fish Sr. (R N.Y. 1920-45). The elder Fish was the son and grandson of former U.S. Representatives. The family has been active politically since the Revolutionary War. Both candidates have advocated stricter laws to stop inflation and strong civil rights legislation. Fish has recommended that an Asian peace-keeping force eventually take over from the United States in Viet Nam. Aldrich has termed this suggestion "unrealistic."

29th District (Albany, Schenectady) -- Rep. Leo W. O'Brien (D), 65, is not seeking re-election. Favored to succeed him is Richard T. Connor, president of the Albany City Council, who is unopposed for the Democratic nomination. Seeking the Republican nomination are Albany attorney John D. Meader, 35, and Daniel E. Button, who resigned as executive editor of the Albany Times-Union to make the race. Meader lost to O'Brien in 1964 by 88,279 votes.

39th District (Buffalo Suburbs) -- Freshman Rep. Richard D. McCarthy (D), 39, is unopposed for renomination. Seeking to make a comeback is former Rep. John R. Pillion (R 1953-65), 62, a staunch conservative who was one of Barry Goldwater's strongest New York supporters. Kenneth J. McIllraith, Orchard Park, a banker, is the officially endorsed Republican candidate -- a decision which prompted Pillion to charge that the endorsement was "dictated in New York City by the Rockefeller machine and big banking and money interests." Answering for the district Republican designating convention, 18th Ward Supervisor Miles D. Bender asserted that for Pillion "to say that Gov. Rockefeller dictated the endorsement of Ken McIllraith is about as silly as if I were to say Barry Goldwater, who is crybaby John's hero, had ordered Mr. Pillion to contest Mr. McIllraith for the nomination."

New York House Candidates

District Number	Democrats	Republicans	Liberals	Conservatives
1	*Otis G. Pike	James M. Catterson Jr.	*Otis G. Pike	Domenico Crachi Jr.
2	Frank M. Corso	*James A. Grover Jr.	Frank M. Corso John A. Brush	Edward Campbell
3	*Lester L. Wolff †•Stanley Millet	William J. Casey #Steven B. Derounian	*Lester L. Wolff	None
4	Martin J. Stedman	*John W. Wydler	Martin J. Stedman	None
5	*Herbert Tenzer	Thomas Brennan	*Herbert Tenzer	•Thomas Brennan
6	Gilbert T. Redleaf John A. Santorelli	*Seymour Halpern	*Seymour Halpern	Ronald E. Weiss

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District Number	Democrats	Republicans	Liberals	Conservatives
7	*Joseph P. Addabbo †James D. Watson	Louis R. Mercogliano	*Joseph P. Addabbo	Raymond G. Carpenter
8	*Benjamin S. Rosenthal	Thomas C. Gowlan	*Benjamin S. Rosenthal	Cyrus Julien
9	*James J. Delaney	John F. Haggerty	•David Green	John F. Haggerty
10	*Emanuel Celler	Erwin A. Rosenberg	*Emanuel Celler	None
11	Frank J. Brascoe Ray H. Williams Stanley J. Kaufman	Benjamin W. Feldman	Edward L. Johnson	None
12	*Edna F. Kelly Eugene Victor	Alfred Grant Walton	*Edna F. Kelly	None
13	*Abraham J. Multer †Melvin Dubin	Mary Gravina	Herschell Chanin	None
14	*John J. Rooney	Leon F. Nadrowski	*John J. Rooney	None
15	*Hugh L. Carey	Herbert F. Ryan	None	Herbert F. Ryan
16	*John M. Murphy	Frank J. Biondolillo	*John M. Murphy	None
17	†Jerome L. Wilson Peter A.A. Berle	*Theodore R. Kupferman	Jerome L. Wilson	Richard J. Callahan
18	*Adam C. Powell	Lassen R. Walsh	Richard Prideaux	Ryland E.D. Chase
19	*Leonard Farbstein †Theodore S. Weiss	Henry E. Del Rosso	Elaine M. Morrison	Henry E. Del Rosso
20	*William F. Ryan	Norman C. Harlowe	*William F. Ryan	Carolyn S. Weller
21	*James H. Scheuer ‡Seymour Ross	Burton Siegel	*James H. Scheuer	•Arthur Semerad
22	*Jacob H. Gilbert Joseph A. Lanbriel Roberto Lebron Nathan Strauss Erma Vidal Santaella T. George Silcott	Pedro Luis Rodriquez	Carlos Rosario	None
23	*Jonathan B. Bingham ‡S. Rubenstein	Harold Grossberg	*Jonathan B. Bingham	Walter A. Quinn Jr.
24	Aileen B. Ryan	*Paul A. Fino	John P. Hagan	*Paul A. Fino
25	*Richard L. Ottinger	Frederick J. Martin Jr.	*Richard L. Ottinger	None
26	Joseph L. Hutner †Leslie A. Roberts	*Ogden R. Reid	None	Albert M. Gants
27	*John G. Dow	Martin B. McKneally Louis V. Mills Joseph J. Eley	*John G. Dow	None
28	*Joseph Y. Resnick	Hamilton Fish Jr. Alexander Aldrich	*Joseph Y. Resnick	Joseph Hervey
29	Richard T. Conners	John D. Meader Daniel E. Button	None	John Mueller

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District Number	Democrats	Republicans	Liberals	Conservatives
30	John S. Hall	*Carleton J. King	John S. Hall	None
31	Raymond E. Bishop	*Robert C. McEwen	Ray Bishop	None
32	Robert Castle	*Alexander Pirnie	*Alexander Pirnie	None
33	Blair G. Ewing	*Howard W. Robison	Blair G. Ewing	None
34	*James M. Hanley	Stewart F. Hancock Jr.	†•Norman Balabanian	Benjamin K. Souler
35	*Samuel S. Stratton	Frederick D. Dugan	*Samuel S. Stratton	None
36	Milo Thomas	*Frank J. Horton	†Donald P. Feder	Robert H. Detig
37	Kenneth Hed	*Barber B. Conable Jr.	†Jerome Balter	None
38	Edison LeRoy Jr.	*Charles E. Goodell	Charles Schwartz	Lloyd R. Murphy
39	*Richard D. McCarthy	Kenneth J. McIllraith #John R. Pillion	*Richard D. McCarthy	#John R. Pillion
40	William Levitt	*Henry P. Smith III	William Levitt	None
41	*Thaddeus J. Dulski	Francis X. Schwab Jr.	*Thaddeus J. Dulski	Francis X. Schwab Jr.

**Indicates indumbent. #Former Representative. •Filing under court challenge. †"Peace" candidates. ‡Write-in candidate.*

NEGRO REPUBLICANS

The National Negro Republican Assembly (NNRA) May 20-22 held its first national meeting in Detroit, Michigan. The Assembly was organized following the 1964 Republican National Convention by Negro delegates and alternates "in direct protest to the control of the Republican party by a small group of extremists." The purpose was to provide Negro Republicans with a means of supporting Republican candidates for other offices whose views were compatible with the views of the Negro group. *(1964 Weekly Report p. 2146)*

Grant Reynolds, former counsel to Republican National Committee Chairman William E. Miller (R N.Y. 1951-55), was elected as president of the Assembly. Jackie Robinson, adviser to New York Gov. Nelson A. Rockefeller (R), was elected to the board of directors and later was selected as the chairman of the board.

The Ripon Society, in a newsletter released June 17, charged there had been a concerted effort to deny Reynolds the NNRA Presidency, led by Clarence L. Townes of Richmond, Va., special assistant to Republican National Chairman Ray C. Bliss. (Reynolds has a reputation for strong insistence on Negro interests within the GOP, while Townes is known to represent a less aggressive stance.) The Ripon report related that there were rumors started "out of Washington" in May to the effect that Reynolds' continued association with NNRA would be "undesirable." Townes went to the Detroit convention intent on blocking Reynolds' nomination, held meetings with delegates at which he attacked Reynolds, and won many over to his side, the Ripon letter charged. It was only after a plea made from the floor of the convention by Robinson in favor of Reynolds that Reynolds was elected to the presidency, the report said. Ripon's editors said several questions remained unanswered, including; "Who sent Townes on his mission?....Who advised him in Detroit and Washington? Who financed and masterminded the wrecking operation on the only national Negro Republican citizens organization?"

The Assembly passed resolutions favoring extension and strengthening of federal legislation to assure nondiscrimination in the sale and rental of private and public housing, and "assignment of personnel and pupils throughout a city school system in a positive and creative effort to achieve the fullest integration possible."

Another NNRA resolution demanded that the Republican Coordinating Committee end its "lily white" existence and add representatives of the NNRA.

The NNRA alleged that "policy decisions, personnel supervision and nationwide candidate support for the 1966 and 1968 campaigns are still in the control of those who hold a discredited, out-dated, anti-civil rights attitude in the Republican party, namely: Victor Johnson, head of the Republican Senatorial Campaign Committee and one of the closest associates of (former) Sen. Barry Goldwater and the late Sen. Joseph McCarthy; Jack Mills, executive director, and Wayne Bradley, executive officer, of the Republican Congressional Campaign Committee staff, both of whom supported Sen. Goldwater, and A. B. Hermann, chief of staff for Ray Bliss at the Republican National Committee." The resolution declared the group's lack of confidence in these men and urged their replacement with "progressive, forward looking, non-Goldwater representatives."

The NNRA also accused Bliss and the Republican Congressional leadership of "courting Southern white ter-

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rorists, racists, bigots and extremists....out of a misguided hope for temporary political gains" in the South.

Other targets of NNRA resolutions were Rep. William L. Dickinson (R Ala.) for his 1965 charges of "sex orgies and drunkenness during the Selma-Montgomery march"; the Young Americans for Freedom for advocating "a coalition between right-wing Republicans and Southern racist Democrats"; the New Jersey "Rat Fink" segment in the Young Republicans; and extremism of left and right, from the John Birch Society and Ku Klux Klan to the Communist party.

Gov. George W. Romney (R Mich.) and Sen. Robert P. Griffin (R Mich.) were guest speakers at the convention. Romney called for a "crusade to persuade Negroes they should not segregate themselves politically" and warned the delegates that if the Negro does not work in both parties, the Democratic party will take the Negro vote for granted.

Robinson said he would have "no hesitancy" about endorsing Romney for the 1968 Presidential nomination but added that the only "chink in Romney's armor" is his membership in the Mormon church. The Mormon church does not allow Negroes to attain the priesthood.

MASS. DEMOCRATIC CONVENTION

Massachusetts Democrats June 10 held their state pre-primary convention in Boston and endorsed former Gov. Endicott Peabody (1963-65) for the U.S. Senate and former Atty. Gen. Edward J. McCormack for Governor. Both will have opposition in the Sept. 20 primary.

Sen. Edward M. Kennedy (D Mass.) did not endorse candidates backed by the convention. Kennedy said he would campaign for Democratic nominees "once the primaries are all over."

Francis X. Bellotti, who defeated Peabody in the partys' 1964 gubernatorial primary, received the convention's endorsement for Attorney General over former Gov. Foster Furcolo (1957-61), who plans a primary fight.

The Republican pre-primary convention will be held June 25 in Boston.

U.S. SENATE. Sen. Leverett Saltonstall (R), 74, has decided against seeking a fourth full term. *(1965 Weekly Report p. 2509)*

On the first ballot, Peabody, 46, received 1,078 votes to 721 for Boston Mayor John F. Collins, 47. Thomas Boylston Adams, a "peace" candidate who is a descendant of two Presidents, received four votes. Collins and Adams will oppose Peabody in the primary.

In the maneuvering for delegate votes, Peabody moved to a commanding lead early in the year, but Collins' campaign was well financed and closed the gap somewhat as the convention neared. Adams never figured in the race.

The margin of Peabody's victory -- 357 votes -- was larger than had been expected. Collins conceded defeat when more than half of the delegates remained to be polled.

In a speech described by observers as "angry and bitter," Collins told the booing delegates he would take his fight to the voters in the primary. "May I concede in all honesty and candor that tonight Johnny Powers has had his night of revenge," Collins said as the "boos" from the crowd began building. "It was a long time coming, but it came. The voice was the voice of Peabody, but the hand was the hand of Powers. I have learned tonight -- and indeed, the hard way -- that you can't always win when you're fighting power politics." Powers is a former president of the state Senate and currently serves as clerk of the state Supreme Judicial Court. Collins defeated Powers in a bitter contest for mayor in 1959.

Boston newspapers speculated that Collins was aiming to influence the TV audience when he sought to discredit the convention's action in endorsing his rival, Peabody.

Peabody appeared before the convention to accept its endorsement. He charged that "the national Republican party wants to come in here to take over the U.S. Senate seat, not because of their interest in the Senate, not because of their interest in you or in Massachusetts, but because of their interest in wiping out the stain of 1964 and because of their interest in putting on a public relations campaign in 1968 which will take away from the Democratic party the leadership and the victories in key Democratic states of the Union."

GOVERNOR. McCormack won the gubernatorial endorsement on the first ballot with a margin of 170 votes after more than four hours of balloting. There were recounts in 19 of the 38 delegations.

McCormack was opposed by Senate President Maurice Donahue and Kenneth P. O'Donnell, 41, former White House aide to President Kennedy (and for a short period, President Johnson). McCormack, 43, led at the end of the first ballot but did not have a majority of the votes. While some of the delegations were being polled, O'Donnell reportedly switched some of his votes to McCormack. This had the effect of eliminating Donahue from the race. Donahue earlier had promised to abide by the decision of the convention and support the nominee. Donahue is expected to run for re-election to the state Senate.

In the final count, McCormack received 892 votes, Donahue 722 and O'Donnell 129. If Donahue had won the party's endorsement, McCormack would have run in the primary, making a three-man race. Prior to the convention, O'Donnell had said he hoped to eliminate Donahue from the race during the convention and then go on to oppose McCormack in the primary. McCormack has been defeated twice in Massachusetts politics -- once in 1962 by Kennedy in the Senatorial primary -- and O'Donnell claimed that any opponent of McCormack would start with 45 percent of the vote.

McCormack had the assistance of an early start on his campaign. He decided Nov. 15, 1964, to run for the Governorship in 1966 and began work immediately. Donahue and O'Donnell did not start campaigning until November 1965. Donahue was kept busy with the legislature and was involved in an argument with Gov. John A. Volpe (R) over imposition of a state sales tax, which Donahue opposed. (The tax was finally approved.) Donahue campaigned effectively during the final months before the convention but he was unable to overcome McCormack's early advantage.

O'Donnell had been critical of the pre-primary convention system, calling it "a tool of the Republican party forced on the Democrats." He said he had long felt his only chance of winning the nomination was in an open primary. O'Donnell considers his major political asset to be his close association with the late President Kennedy both as Senator and as President.

Robert E. Bidwell, a Dedham businessman, did not seek the party's convention endorsement but will enter the primary. His only political experience has been in town meetings. He is counting on votes from people "fed up" with professional politicians.

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Related Development. J. Alan MacKay, 30, a national vice president of the Young Americans for Freedom (YAF), will oppose Atty. Gen. Edward W. Brooke, 47, for the Senate, at the Republican endorsing convention and possibly in the primary. MacKay is backed by the Committee to Preserve the Two-Party System, formed by the conservative wing of the Massachusetts GOP. The Boston Herald describes MacKay as "straight out of the Barry Goldwater school of right-wing Republicanism." MacKay concedes he has no chance against Brooke, a Negro who, if elected, would be the first of his race in the U.S. Senate since Reconstruction.

MISSISSIPPI PRIMARY

State Sen. G. V. ("Sonny") Montgomery, 46, of Meridian, won the June 7 Democratic nomination for the U.S. House from the 4th District by an official count margin of 39 votes. Unofficial results had given Montgomery an even 50.0 percent of the vote, and if sustained would have required a runoff. J. O. Hollis, 50, of Carthage, who came in second in the four-man race, has indicated he will not seek a recount. Montgomery will face state Rep. L. L. McAllister (R) in the general election for the House seat being vacated by Rep. Prentiss Walker (R), who is seeking the Senate seat held by Sen. James O. Eastland (D). *(Weekly Report p. 1247)*

Correction. The returns for the 5th District should have shown a total vote of 38,680 (not 26,680) for Rep. William M. Colmer (D).

S.C. PRIMARY RESULTS

Following are the results of the June 14 gubernatorial, U.S. Senate and House Democratic primary *(Weekly Report p. 1158)*:

GOVERNOR. Incumbent Gov. Robert E. McNair (D), 42, was unopposed in the primary and will oppose the Republican candidate, state Rep. Joseph O. Rogers Jr., 45, in the general election.

U.S. SENATE. Democrats nominated former Gov. Ernest F. Hollings (1959-63) for the remaining two years of the term of Sen. Olin D. Johnston (D 1945-65), who died April 18, 1965. They chose state Sen. Bradley Morrah to oppose incumbent Sen. Strom Thurmond (R S.C.) for a six-year term.

Hollings, 44, defeated Sen. Donald S. Russell, 60, who resigned as Governor April 21, 1965, to accept appointment April 22 to Johnston's Senate seat. Hollings received 165,657 votes (61.0 percent) and Russell, 105,697 (39.0 percent) in nearly complete results. Hollings will oppose state Sen. Marshall J. Parker, 45, in the general election.

Morrah, 50, defeated John Bolt Culbertson, 58, of Greenville, a party maverick who sought the Negro vote as a pro-civil rights candidate and an ardent backer of President Johnson's Great Society programs. Morrah received 144,181 votes (56.8 percent) and Culbertson 109,682 (43.2 percent).

The race issue became a factor in the primary June 6 when it was reported Russell had Negro support in the Senate races. Hollings had trouble on the issue of Negro support as well, however. The South Carolina Independents, a white segregationist group, announced June 5 it had withdrawn support for Hollings, but did not say the group was backing Russell. The Independents accused Hollings of "dealing secretly with the Negro leaders to obtain the bloc vote."

Russell said, "I have taken my campaign to all the people of South Carolina, based on my record of public service, fairness and integrity. It is open, above board and there for all to see." Russell June 7 issued a strong anti-Communist statement which was considered as a repudiation of the Negro support.

Hollings said, "I've made no back-door deals. My candidacy has been open and above board. I don't have the appeal or the money to satisfy these groups, and I will continue to solicit the support of all qualified voters in the June primary."

Morrah is a Greenville attorney with a strong conservative record in the state Senate. He was supported by state Democratic party leaders, according to newspaper reports, because they feared a Culbertson-Thurmond contest would arouse state conservatives and result in the defeat of Democratic candidates in other races where Republicans offer strong opposition.

U.S. HOUSE. No primary contests. The U.S. House nominees, district-by-district:

District Number	Democrats	Republicans
1	*L. Mendel Rivers	None
2	Fred Le Clerq	*Albert W. Watson
3	*W.J. Bryan Dorn	John K. (Bud) Grisso
4	*Robert T. Ashmore	None
5	*Tom S. Gettys	None
6	*John L. McMillan	Archie C. Odom

**Indicates incumbent.*

IDAHO DESIGNATIONS

The Idaho Republican and Democratic parties June 11 held state conventions to designate candidates for the Aug. 2 primary ballot. Under state law, a candidate must receive 20 percent of the convention vote to be eligible for a ballot position.

Republicans. The GOP convention designated Gov. Robert E. Smylie (R), seeking his fourth four-year term, and state Sen. Don Samuelson (R Boise), for the gubernatorial slot. In an acceptance speech, Smylie said, "We can carry the banner confident that the unit established at this assembly will lead to victory in November." Samuelson told the delegates he believed in a sound fiscal policy and warned that "there must be no export of Idaho water." The convention nominated both Smylie and Samuelson by acclamation, avoiding a record vote that would have reflected the party strength of the two men. U.S. Sen. Len B. Jordan (R) was designated for renomination without opposition.

Republicans designated two candidates for the 1st District (North) House seat currently held by Rep. Compton I. White Jr. (D). They are state Sen. James McClure (Payette County) and Robert B. Purcell, manager of the Lewiston chamber of commerce. McClure received 120

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votes and Purcell 36, three more than the required 20 percent. Speaking of White, McClure said, "My aim is to remove the incompetent incumbent." Purcell said, "I do not support nor condone the no-win policy of the Johnson Administration in Viet Nam. If we must make the sacrifices, let's do it to win."

Rep. George V. Hansen (R) was redesignated for his party's 2nd District (South) nomination without opposition.

Democrats. Three gubernatorial candidates were certified for the ballot -- state Sens. Cecil Andrus (D Orofino), William Dee (D Grangeville) and Charles Herndon (D Salmon). The vote was 128 for Andrus, 77 for Dee and 92 for Herndon. Lloyd J. Walker, former Democratic state chairman, withdrew from the contest before the balloting. In his acceptance speech, Andrus said he would seek "to improve our state government, to make it more economical... and more responsive to the needs of the people." Herndon, in an apparent reference to Smylie's 12 years in office, said, "For 12 long years the direction of self-interest has perched on the shoulders of Idaho. Whether we remove it is up to us."

Former U.S. Rep. Ralph Harding (D 1961-65) was designated for the U.S. Senate nomination by acclamation, as was Rep. White, seeking re-election in the 1st District.

Two candidates were certified for the ballot in the 2nd District House race -- Capt. George A. Willmore (D), currently on active duty as a helicopter pilot in Viet Nam, and A.W. Brunt (D) of Idaho Falls. Former Attorney General Frank Benson withdrew before the balloting. The vote was 86 for Willmore, 69 for Brunt.

ILLINOIS PRIMARY RESULTS

Following are the results of the June 14 Illinois U.S. Senate and U.S. House primary *(Weekly Report p. 1156)*:

SENATE. Sen. Paul H. Douglas (D), 74, running unopposed, amassed 747,896 votes in returns from 9,430 of 10,732 precincts. Industrialist Charles H. Percy, 47, a moderate, easily won the Republican nomination over three nominal opponents -- Lar "America First" Daly; Harold J. Doyle, 44, a Chicago tavern owner; and Don DuMont, 63, an ice cream truck driver. Returns from 9,502 of 10,732 precincts gave Percy 502,421 (89.9 percent) and 56,348 (10.1 percent) for his three opponents combined.

U.S. HOUSE. The powerful Democratic machine of Chicago Mayor Richard J. Daley sustained its hold on two districts despite vigorous challenges. Helping to bring out the organization vote was a citywide referendum on a Daley-backed $195 million bond issue for civic improvements, which was approved by a 5-2 margin. Voters had turned down a similar bond issue in 1962. Races of interest:

1st District (Chicago -- Southside) --Rep. William L. Dawson (D), 80, chairman of the House Government Operations Committee, easily defeated two opponents for renomination. Opposing Dawson were social worker Fred Hubbard, 37, and Ronald L. Williams. All three are Negroes. Almost complete returns:

Dawson	37,014	60.0%
Hubbard	21,506	34.9
Williams	3,149	5.1

Dawson, an important cog in the Daley machine, virtually controls the district's politics. Hubbard had campaigned as part of a new "Negro offensive" in Chicago.

2nd District (Chicago -- Southside) -- Rep. Barrett G. O'Hara (D), 84, narrowly turned back the challenge of anti-organization candidate, State Rep. Abner J. Mikva (D), 40. Almost complete returns: O'Hara 33,789 (52.0 percent); Mikva 31,180 (48.0 percent).

The difference in the two candidates' ages was a major issue although it was O'Hara himself who had raised it. O'Hara said, "I'm 84; I was one of the founding members of the Veterans of Foreign Wars, and I'll tell you something -- I'm going to be around for another 50 years. Most people get to be 84 and don't have the endurance to do anything but rest. I have the endurance and I shouldn't be penalized for not being senile."

Another major issue in the campaign was Viet Nam. Mikva had called for a halt in U.S. bombing of North Viet Nam and also wanted U.S. recognition of Red China and its admission to the United Nations. O'Hara, although he had opposed resumption of the bombings over North Viet Nam, said "after a President has made a final decision, we have a showing of national unity."

Following is a district-by-district list of nominees for the U.S. House:

District Number	Democrats	Republicans
1	*William L. Dawson	David R. Reed
2	*Barratt O'Hara	Philip G. Bixler
3	*William T. Murphy	Albert F. Manion
4	Ray J. Rybacki	*Edward J. Derwinski
5	*John C. Kluczynski	William H.G. Toms
6	*Daniel J. Ronan	Samuel A. DeCaro
7	*Frank Annunzio	Joseph D. Day
8	*Dan Rostenkowski	John H. Leszynski
9	*Sidney R. Yates	Richard C. Storey Jr.
10	Dr. Frank J. Jirka Jr.	*Harold R. Collier
11	*Roman C. Pucinski	John J. Hoellen
12	Herbert L. "Hub" Stern	*Robert McClory
13	James L. McCabe	*Donald Rumsfeld
14	Kenneth McCleary	*John N. Erlenborn
15	Selwyn L. Boyer	*Charlotte T. Reid
16	None	*John B. Anderson
17	Bernard J. Hughes	*Leslie C. Arends
18	Thomas V. Cassidy	*Robert H. Michel
19	*Gale Schisler	Tom Railsback
20	Richard R. Wolfe	*Paul Findley
21	*Kenneth J. Gray	None
22	Cameron B. Satterthwaite	*William L. Springer
23	*George E. Shipley	Leslie N. Jones
24	*Melvin Price	John S. Guthrie

**Indicates incumbent.*

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SUPREME COURT

The Supreme Court June 13 upheld the validity of the "American flag" provision of the Voting Rights Act of 1965, handed down decisions in the antitrust field, interpreted the contempt power of the House Un-American Activities Committee and detailed 5th Amendment rights of persons accused of crime while under police interrogation.

VOTING RIGHTS ACT

The Court June 13 by a 7-2 vote held that the "American flag" provision (section 4(e)) of the Voting Rights Act of 1965 (PL 89-110) was a valid exercise of Congressional power under the 14th Amendment.

Section 4(e) provided that no person who had completed sixth grade in a school under American jurisdiction in which the language of instruction was other than English could be denied the right to vote because of inability to read or write English. The Court read the provision as being directed at enfranchising residents of New York who had migrated from the Commonwealth of Puerto Rico. New York required voters either to be literate in English or to produce certification of completion of sixth grade in an English-language school.

Justice William J. Brennan Jr. wrote for the Court in *Katzenbach v. Morgan* and *New York City Board of Elections v. Morgan*, treated as one case. Appellants, registered voters of New York City, had successfully obtained injunctions against enforcement of the law in federal district court for the District of Columbia. The three-judge district court, one judge dissenting, held that Congress exceeded its constitutional powers and therefore usurped powers reserved to the states under the 10th Amendment.

The Court reversed, holding that Congress could enact the Act under section 5 of the 14th Amendment, which gave Congress power to "enforce, by appropriate legislation, the provisions of this article." The Court found that New York's English literacy test could not be enforced to the extent that it was inconsistent with section 4(e).

Justice Brennan said that section 4(e) "may be viewed as a measure to secure for the Puerto Rican community residing in New York nondiscriminatory treatment by government" and that Congress, through its investigation into the need for the Act generally, brought a "specially informed legislative competence" to consideration of the provision. He noted that Congress might have questioned whether literacy in English was necessary to intelligent voting where newspaper, radio and television coverage of politics was readily available in Spanish, as it was in New York City. Finally, he described the relationship between Congress and Puerto Rico as "unique," adding that Congress "fostered policies encouraging migration" from the Commonwealth to the states. He cited specifically the Jones Act of 1917, which conferred United States citizenship on all citizens of Puerto Rico.

Justice Brennan concluded that section 4(e) constituted "appropriate legislation to enforce the Equal Protection Clause" of the 14th Amendment.

In a companion case, *Cardona v. Power*, the Court by a 5-4 vote vacated the judgment and remanded to the New York Court of Appeals, the state's highest court. The case involved a suit by a Spanish-speaking Puerto Rican migrant who unsuccessfully challenged the validity of New York's English literacy law. Justice Brennan, writing for the Court, said it was unclear whether the appellant might benefit from the Court's holding on section 4(e) and it was unknown what the New York Court of Appeals might hold regarding the English literacy test in light of the *Morgan* cases.

Justice William O. Douglas, joined by Justice Abe Fortas, dissented in *Cardona* on grounds that the appellant had a "constitutional right to vote in New York on a parity with an English-speaking citizen -- either by passing a Spanish literacy test" or by meeting the requirements of section 4(e).

Justice John Marshall Harlan, joined by Justices Potter Stewart, dissented in the *Morgan* and the *Cardona* cases. Justice Harlan characterized section 4(e) a "legislative announcement that Congress believes a state law to entail an unconstitutional deprivation of equal protection." He noted that section 4(e) was introduced from the floor during debate on the Act, that there were no committee hearings on the section and no committee reports referring to it. "There is simply no legislative record supporting such hypothesized discrimination of the sort we have hitherto insisted upon when Congressional power is brought to bear on constitutionally reserved state concerns," he said.

He said that the New York law should have been upheld in *Cardona* as a valid exercise of state power to set voter qualifications and that the *Morgan* cases should have been affirmed. It was for courts, not for Congress, to determine if New York's English literacy test infringed upon the commands of the 14th Amendment, he said. Without investigating the situation, he said, Congress had decided that it did.

Other remedial provisions of the Act had been upheld by the Court March 7 by unanimous vote in *South Carolina v. Katzenbach*. *(Weekly Report p. 555)*

CONTEMPT POWER

The Court June 13 by a 9-0 vote reversed a conviction for contempt of Congress resulting from a House Un-American Activities Committee (HUAC) investigation. The Court found that HUAC violated its own rules, did not authorize the investigation, did not specify the subject matter of the investigation and did not fully understand itself what the investigation was about.

Justice Fortas wrote for the Court in *Gojack v. U.S.* which involved the conviction of John T. Gojack for refusing to answer questions of a HUAC subcommittee in 1955. Gojack did not invoke the 5th Amendment but did challenge the validity of the investigation. An earlier conviction had been upset by the Court in *Russell v. U.S.* (1962) because the indictment failed to specify the subject matter of the inquiry undertaken by the subcommittee.

Upon further consideration of the case, Justice Fortas said, the Court found that HUAC violated its own Rule I in

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failing to authorize the inquiry undertaken by the subcommittee. In addition, he said HUAC never stated the subject matter of the inquiry. "The jurisdiction of the courts cannot be invoked to impose criminal sanctions in aid of a roving commission," Justice Fortas said.

He said that in a prosecution for contempt of Congress, the "line of authority" from Congress to one of its committees and then to one of that committee's subcommittees "must plainly and explicity" appear, and it must appear in terms of a delegation with respect to a particular, specific subject matter." He said the Court was concerned with Congressional action which resulted in criminal prosecutions, and was not speaking of how Congress might conduct its strictly legislative business.

ANTITRUST

The Court June 13 by a 5-4 vote held that the Federal Trade Commission (FTC) had standing to seek preliminary injunctive relief from a federal court of appeals to block an imminent merger. The holding in *FTC v. Dean Foods Co.* materially strengthened the FTC's ability to stop mergers to which it objected.

Justice Tom C. Clark wrote for the majority and said that courts of appeals had power to issue injunctions under terms of the All Writs Act. For its part, he said, the FTC had the "incidental power" to seek such relief even though no federal statute specifically stated so. To find otherwise, he said, would "stultify Congressional purpose" to enforce the Clayton Act in antitrust matters.

In dissent, Justice Fortas, joined by Justices Harlan, Stewart and Byron R. White, said that Congress gave the FTC no such "threshold injunctive power." He said the All Writs Act vested such power in federal district courts, not courts of appeals, and that U.S. attorneys, under direction of the Attorney General, were empowered to seek such injunctions, but the FTC was not.

Since 1956, Justice Fortas said, at least 37 bills had been introduced in Congress aimed at giving the FTC "a threshold, temporary remedy." None was passed. "This Court now bestows what the Congress has withheld," he said.

The Court by a 6-3 vote held in *U.S. v. Grinnell Corp.* and four companion cases that Grinnell had violated section 2 of the Sherman Act in building an "empire" which controlled 87 percent of the "accredited central station" alarm service in the nation. The service provided guards and other personnel who responded to alarms of various kinds installed on customers' premises.

Justice Douglas, writing for the majority, found that the various kinds of alarm systems, such as fire, waterflow and burglar alarms, constituted one market and that Grinnell dominated it. In dissent, Justices Harlan, Fortas and Stewart disagreed, arguing that the record did not support the finding that all of Grinnell's activities fell within one geographic and product market.

The Court by a 9-0 vote held that a federal district court erred in dismissing a government antitrust suit against the Pabst Brewing Co., the nation's 10th largest brewer, after it acquired the Blatz's Brewing Co., the nation's 18th largest brewer, in 1958.

Justice Hugo L. Black, writing for the Court, in *U.S. v. Pabst Brewing Co.*, said that the government's showing of a "trend toward concentration" in the beer industry was a relevant factor in estimating the anticompetitive effect of a merger and should have been given weight by the district court.

CRIMINAL LAW

The Court June 13 by a 5-4 vote held that statements made by an accused person during police interrogation were inadmissible at trial unless certain procedural safeguards were observed in obtaining them, and it specified what those safeguards were. The ruling had been long-awaited by law enforcement officials, who sought clearly defined constitutional rules for interrogating persons suspected or accused of crime.

The holding disposed of four cases, *Miranda v. Arizona, Vignera v. New York, Westover v. U.S.* and *California v. Stewart*, but would be known as *Miranda*. Chief Justice Earl Warren wrote for the majority, while Justices Clark, Harlan, Stewart and White dissented.

The Chief Justice summarized the Court's interpretation of the 5th Amendment privilege against self-incrimination as follows:

"...the prosecution may not use statements, whether exculpatory or inculpatory, stemming from custodial interrogation of the defendant unless it demonstrates the use of procedural safeguards effective to secure the privilege against self-incrimination....Prior to any questioning, the person must be warned that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed.

"The defendant may waive effectuation of these rights, provided the waiver is made voluntarily, knowingly and intelligently, If, however, he indicates in any manner and at any stage of the process that he wishes to consult with an attorney before speaking, there can be no questioning. Likewise, if the individual is alone and indicates in any manner that he does not wish to be interrogated, the police may not question him."

The Chief Justice said that those procedures were followed by the Federal Bureau of Investigation, which he said had "compiled an exemplary record of effective law enforcement." He added that the Bureau's practices "can readily be emulated by state and local enforcement agencies."

The dissenters warned that the Court's opinion would inhibit effective law enforcement. Justice White said that it would "have a corrosive effect on the criminal law as an effective device to present crime" and that it was a "constitutional straitjacket which forecloses more discriminating treatment by legislative or rulemaking pronouncements."

VIET NAM DEVELOPMENTS

Secretary of Defense Robert S. McNamara at a joint news conference with Secretary of State Dean Rusk June 11 said that 18,000 more American troops had been authorized for movement to Viet Nam in the next 45 days, bringing the total there to 285,000. The news conference followed a White House briefing of Congressional leaders of both parties. *(For previous Viet Nam developments, see Weekly Report p. 1151.)*

McNamara said that the "natural" internal political ferment currently taking place in South Viet Nam would not hinder the U.S. military effort and that he expected continuing military progress. He also explained that as a result of strong allied military operations between Jan. 1 and April 15 the expected monsoon offensive by the Viet Cong

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has failed to materialize, although he conceded that the Cong might have held off to "watch political disorder develop." McNamara gave the following casualty figures since the beginning of the year: U.S. fatalities, 2,100; South Vietnamese, 4,000; and other allied forces (Australian, New Zealand and Korean), 250.

Following the briefing at the White House of the Congressional leaders, Sen. Everett McKinley Dirksen (R Ill.) said that his questions had been "freely answered," that he was "eminently satisfied" and that he had left the meeting with the feeling that the situation in Viet Nam has taken on "a slightly hopeful cast." Two days previously, June 9, Dirksen had said that the President and his Administration were being neither "candid" nor "consistently credible" in their statement of U.S. policies in Viet Nam. He renewed, at that time, a request that President Johnson convene a "bipartisan conference" to discuss and examine Viet Nam policy.

ECONOMIC DEVELOPMENTS

Participation Sales. The first offering of participations in pools of assets acquired by federal agencies in various lending programs under the provisions of the Participation Sales Act of 1966 was made by the Federal National Mortgage Assn. (FNMA) June 9. *(Weekly Report p. 1056)*

The offering totalled $530 million. The participation certificates carried interest rates ranging from 5 3/8 to 5 3/4 percent -- the highest ever offered investors in new participation certificates. It was estimated that 80 percent of the securities were sold by late afternoon of June 9.

The certificates were offered by a syndicate headed by Merrill Lynch, Pierce, Fenner & Smith Inc., Salomon Brothers & Hutzler, the First Boston Corp. and the Morgan Guaranty Trust Co. Of the $530 million offering, $350 million represented shares in loans made by the Small Business Administration and $180 million represented shares in pools of mortgages.

The 11 Republican members of the House Banking and Currency Committee June 9 criticized the Administration for the program which they said set "a new high in the cost of Government agency credit."

Job Statistics. The Subcommittee on Economic Statistics of the Joint Economic Committee June 12 recommended that the Government gather and publish comprehensive national job vacancy statistics. It is to include 80 major labor areas recommended by the Department of Labor.

The Subcommittee said regular statistics on the number of job vacancies by occupation, industry and area would raise the efficiency of the nation's manpower programs. It would be useful, the Subcommittee said, in job counseling and manpower training and development programs, and would help to match employers' needs for workers with unemployed or underemployed workers.

Wholesale Prices. The Labor Department June 13 announced that the wholesale price index in May was unchanged from April at 105.5 percent of the 1957-59 base. The index was up 3.3 percent over May 1965. Prices were lower for farm products and processed foods but the price of industrial goods rose enough to offset the decrease. The price of industrial goods was up 0.4 percent to 104.7 percent of the base and up 2.3 percent over April 1965. *(Weekly Report p. 969)*

Tax Outlook. Secretary of Commerce John T. Connor June 14 said that the nation's economy appeared to be in a "healthy situation" and that he did not expect a tax increase to help fight inflation would be sought during this session of Congress.

Speaking at a press conference, Connor said the reduction in the rate of growth of personal income was an indication of "moderation" in the economy. Other signs of moderation, he said, were steady wholesale prices and the slower pace of automobile sales and housing construction. He said, however, there was no indication of any basic weakness in the economy. *(Weekly Report p. 1152)*

NATO DEVELOPMENTS

Defense Secretary Robert S. McNamara June 15 announced that all U.S. Air Force units and air and ground munitions in France would be withdrawn within the next few months. McNamara's move was in response to demands by French President Charles de Gaulle for evacuation of all U.S. forces from France by April 1, 1967. *(For previous developments concerning the North Atlantic Treaty Organization (NATO), see Weekly Report p. 1147)*

Involved in the U.S. withdrawal would be some 122 aircraft, 7,500 airmen and civilians, 10,700 U.S. dependents and 2,100 French employees at U.S. bases in France.

Removal of the units, McNamara stressed, would in no way reduce U.S. capabilities in Europe. Arrangement had already been made to place some of the units in Britain and negotiations were under way to base the others elsewhere in Western Europe. If suitable bases could not be found, he said, some of the units might be returned to the United States with an advance base in Europe assigned for emergency use. Both air and ground munitions stocked in France would be distributed among other NATO nations, he added, mostly West Germany.

Brussels Conference. NATO foreign ministers in a two-day conference at Brussels June 7-8 agreed to refer to the NATO Council in Paris the issue of the status of French troops in Germany after their scheduled removal from NATO integrated command July 1.

The crucial issue which had blocked agreement until late in the second day had been the status of French forces "in an emergency" and how they would cooperate with NATO forces in time of war. The French had objected to any mention of "emergency," contending this would commit them to a form of "concealed integration" with NATO forces. The final agreement omitted this reference and included language generally interpreted as leaving the Council free to discuss the role of French troops in all cases -- peace, alert or war.

In other key decisions, the ministers agreed to the transfer of NATO Supreme Military Headquarters from France to Belgium, consolidation of subordinate commands in Europe and abolishment of the Washington-based, three-power Standing Group (U.S., France and Britain) -- NATO's highest military council.

The conference came to no decision, however, on another major issue confronting the alliance -- whether to shift the NATO Council from Paris to another member nation. U.S. Secretary of State Dean Rusk June 13 told a subcommittee of the House Foreign Affairs Committee that he was convinced the allies would shift the Council "if it is clearly evident that this needs to be done."

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GRAND CANYON

The Internal Revenue Service announced June 13 that it would no longer guarantee certain tax exemptions enjoyed by the Sierra Club, an influential nonprofit conservation organization. The action was taken, the IRS said, because of publication in two newspapers (the New York Times and the Washington Post) of full-page advertisements attacking a proposal to build two federal hydroelectric dams near the Grand Canyon in Arizona as part of the Lower Colorado River Basin Project. *(For story on dams, see Weekly Report p. 1058.)*

The Internal Revenue Code of 1954 provided that many nonprofit organizations were exempt from income taxes and also that contributions to such organizations could be deducted from the contributor's income taxes. The code also provided that both these exemptions could be withdrawn if a nonprofit organization devoted a "substantial" part of its activities to propaganda or other attempts to influence legislation. *(Congress and the Nation p. 1561)*

The advertisements were published June 9 and said that if the dams were built "two standing lakes will fill what is presently 130 miles of canyon gorge." Readers were asked to write to Members of Congress, the Interior Department and the President to protest building of the dams. The same day, Rep. Morris K. Udall (D Ariz.), in a long speech on the floor of the House, said the advertisements were "replete with falsehoods and distortions," and represented a "flagrant hatchet job."

A letter informing the Sierra Club of the IRS action was delivered to the club's San Francisco office June 10. The club's executive director, David Brower, said June 12 that "conservation organizations across the country are largely dependent on tax deductibility to carry out their public service mission so that the seizure of this status is in a sense confiscatory. The Sierra Club will contest this to the highest court if necessary." Brower told CQ June 15 that the advertisements cost about $10,000. He said the club's budget for the year was $1.6 million.

In its June 13 press release, the IRS said the Sierra Club might lose both its tax-exempt status and its right to receive tax-deductible contributions. Interior Department Secretary Stewart L. Udall and other Administration spokesmen have not commented on the IRS action. During House Public Works Irrigation and Reclamation Subcommittee hearings on the Lower Colorado River Basin Project, Interior Department spokesmen supported authorization of the Marble Canyon Dam, north of Grand Canyon, and recommended deferral of the large Bridge Canyon Dam, south of the canyon. *(Weekly Report p. 1070)*

MARKETING SURVEY

The National Commission on Food Marketing June 12 released a study disclosing that shoppers in low-income areas tend to pay more for their food because of buying habits than do shoppers in higher-income neighborhoods.

The study was based on a survey conducted in February 1966 for the Commission by the Bureau of Labor Standards.

The Bureau reported that patrons in low-income area stores generally purchased smaller quantities of a product -- such as a two-pound sack of flour instead of a five-pound sack -- paying higher "unit costs" and more dollars in the long run than consumers in higher-income areas.

The study found "no significant differences" in the prices charged by comparable stores (chains and large and small independents) in the low- and high-income areas. It noted, however, that higher prices were usually requested by the small independent stores "most common in low-income neighborhoods, than in large independents and chain stores which predominate in the higher-income areas."

The Bureau studied the shopping habits of consumers in six cities -- Atlanta, Chicago, Houston, Los Angeles, New York City and Washington, D.C., -- in buying 18 commodities considered to account for "sizable expenditures of low-income families." They included flour, bread, steak, ground beef, pork chops, bacon, chicken, fresh milk, evaporated milk, margarine, eggs, grapefruit, lettuce, potatoes, canned peas, sugar, coffee and cola drinks.

The study will be part of a final report by the Commission to President Johnson and Congress on or before July 1, 1966. The Commission was established by Congress in 1964 to study and appraise the marketing structure of the food industry. Its original deadline of July 1, 1965, was extended for an additional year by Congress. *(1965 Weekly Report p. 865)*

STUDENT LOANS

President Johnson and the American Bankers Assn. June 10 started the program of federally guaranteed loans to college students from private lenders under the Higher Education Act of 1965 (PL 89-329).

The President said, "For millions of families, the financial burden of college education will now be lifted; new opportunities will open for American students. This program is one more example of creative federalism." *(For the text of the President's remarks, see p. 1321.)*

The Association's campaign will try to induce the nation's banks to lend to college students under the program in which the Government subsidizes the difference between the 3-percent interest rate paid by students and the 6-percent interest received by the banks. The Government also guarantees the loans. The association expects about 300,000 students to borrow $400 million in the 1966-67 school year. Students from families with an adjusted annual income up to $15,000 qualify for the program. *(For PL 89-329) provisions, see 1965 Weekly Report p. 1763.)*

Capitol Briefs

Space Feats. U.S. astronauts Thomas P. Stafford and Eugene A. Cernan June 6 completed a three-day trip in space that carried them 45 times around the world. During the mission, Cernan made a record two-hour, seven-minute walk in space. The astronauts, however, failed to link their Gemini 9 capsule with an orbiting target vehicle because a protective cover had failed to dislodge from the docking apparatus.

The American spacecraft Surveyor I sent more than 10,000 pictures of the moon back to earth before it was turned off June 14. The craft, the first in a series of seven designed to explore possible landing sites on the lunar surface in preparation for the planned program goal of landing two men on the moon in 1969, made a soft landing on the moon June 2.

(Continued on p. 1321)

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FOREIGN SERVICE GRADUATES

Following is a partial transcript of President Johnson's June 9 remarks to the Senior Seminar graduates of the Foreign Service Institute:

...It gives me a great deal of pleasure this morning to greet the graduates of the Senior Seminar in Foreign Policy. This year of study has prepared you for the highest posts of responsibility in your service. I have been able personally to judge the high standards set by some of your alumni who are now our Ambassadors and senior officials.

I am encouraged that among you are representatives of the four Armed Services and five other Government Departments. This, I think, reflects the revolution in foreign affairs of the past generation. Foreign policy is no longer just two-way communications between foreign offices. Almost every major branch of government is involved in some way in foreign policy. The need for teamwork between all of us has never been greater.

The unique relationship of Secretaries Rusk and McNamara and Mr. Bell symbolizes the kind of cooperation that I think we need at every level of this government. It is more than encouraging -- it is quite essential to a strong foreign policy.

The close and special ties between the President and the Foreign Service should always be close, for the Constitution places on the President the direct responsibility for the conduct of foreign relations. The Foreign Service, like the Office of the President, belongs to no one single department. It serves the whole of this government.

The Senior Seminar provides a year of thought, reflection, and study to some of the most talented men in our Government. This chance to look backwards and forwards -- and all around -- in my judgment, has never been more essential.

Danger and Opportunity

This present moment of history stands balanced between high danger and rare opportunity.

The danger is clear enough -- in Southeast Asia and other areas where human misery and vaulting ambitions combine to threaten peace and security in the world. Much of our effort must be devoted to preventing the forces of aggression from asserting themselves or dealing with them when they do.

But there is -- I deeply believe -- a very rising tide of good sense in the world and a growing determination to get on with the constructive tasks that are ahead of us.

That is why, with our Latin American friends, we are constantly seeking ways to accelerate the Alliance for Progress.

That is why, with our friends in Africa, we are constantly searching for ways to accelerate that continent's economic and social development.

That is why, in the whole arc from Teheran to Tokyo and Seoul, we are working with the governments and people of Free Asia as they seek increased development and increased regional cohesion.

And that is why, as we face the reorganization of NATO, we are concerned not merely with the relocation of troops and of headquarters, but with bettering relations among Atlantic nations and between the East and the West.

This has a special meaning for those of you who are graduating here today.

Those who bear an operating responsibility in foreign policy cannot be content merely to handle today's problems with efficiency and discipline. They must every day ask each in his own field: What can we do -- that we are not doing -- to tip the balance a little bit in favor of order, in favor of progress, and in favor of peace?

What can we start doing now which will enlarge the prospects of life for people a generation from now?

I ask those questions to myself every morning and every night.

And I look to you and your colleagues to help me find the answers to those questions.

'End of the Tunnel'

The work we do will consume not only today -- and this month -- and this year, but many years and many lifetimes to come. I urge you to remember that Americans often grow impatient when they cannot see light at the end of the tunnel -- when policies do not overnight usher in a new order.

But politics is not magic. And when some of our fellow citizens despair of the tedium and the time necessary to bring change (and I mean no criticism to anyone; I hope the sensitive will not take notice) as for example in Viet Nam today, I believe they are really forgetting our history.

It was on July 4, 1776, that the Continental Congress adopted the Declaration of Independence in Philadelphia. Not for many years did the shape of true order and security finally emerge.

The seat of Government in those days moved from Philadelphia to Baltimore and then to Philadelphia again; to Lancaster and to York and back to Philadelphia; to Princeton to Annapolis to Trenton; then to New York City and finally here to Washington.

The Articles of Confederation were adopted in 1777, but they were not ratified by all of the States until 1781 -- the year that the war ended.

A small elite group -- 55 men from 12 States -- met in our Constitutional Convention. One State would not participate. The meeting was called for May 14, 1787, but it did not have a quorum until some 11 days later. The Convention labored until September 17, before the Constitution was finished. Nine more months passed before that document was ratified by our people.

And after George Washington was elected President, down in 1789, Congress needed almost four months to get a quorum to come to organize. Washington was not inaugurated finally until April 30. Thirteen years had passed since the colonies had set out to become a nation.

We ought never to be complacent when change is so painfully slow in coming. We must constantly work to accelerate its pace. But let me counsel you who are going on now to important posts in the far corners of the world, those of you who are taking up very difficult tasks in the field of foreign policy: Be restless and discontented with things as they are; always strive and constantly work to change them, but never despair because the task is greater than you are and the time to finish it is longer than you have.

PRESIDENTIAL SCHOLARS

Following is a partial transcript of President Johnson's June 7 remarks to the 1966 Presidential Scholars:

...Every week I welcome dozens of visitors to this historic White House. I greet distinguished men and women from every walk of life and from every corner of our land. But the most honored guests are always those who are set apart by achievement.

I am happy that you are younger members, because ever since my early days as a teacher I have been interested in and attracted to the young. I have tried to keep young by meeting with the young and learning from them.

Last week I met with the graduating class from the high school where I taught in Texas, almost 30 years ago. Today I meet with

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you. Tomorrow I will meet out here with more than 1,000 students from Rural Electric Co-Operatives from every State in the Union.

And by the end of the week I should feel, and I hope I do feel, as young as you do.

I have asked you to come here so that I could thank you and compliment you and your teachers and your parents. But I also want to challenge you. So this afternoon I bring you more than a medallion to mark your honor. I bring you the pride and the hope of a Nation that cherishes excellence and commitment, and that has never needed your kind of excellence and commitment more than it needs it right now.

You have been born into an age which will give you no rest. You will find that there is no security on this earth, except the security of opportunity. You will discover that democracy has never been more a voyage of adventure, and never less a safe harbor, than it is in the time in which you live. And as long as you live, you will make that voyage in a world awash with waves of turbulence and change.

Our dizzying ability to discard the old and create the new; our giant leaps in travel and quantum jumps in communication; our marvelous capacity to shrink the world and our terrifying ability to destroy it -- all these and more are the challenges that surround you. They make standing still impossible and retreat unthinkable for the young scholar, the young businessman, the young farmer -- every member of your generation.

The world that your elders have created is full of promise, but it is far from perfect. We stand now, your generation and mine, where Robert Frost had his mounted rider pause and say: "But I have promises to keep, and miles to go before I sleep."

As young people you probably feel like the horse in that famous poem. You shake your harness and are eager to get on. I hope you are, because tomorrow is coming up fast behind you.

Today, almost half our population is already under 30 years of age. In five years, almost half of our people will be under 26. But it is not your numbers alone that make you so important. Your Government does not count you as faceless digits. Your country does not count you as punched holes in a manpower computer card. We do not count you. What we really do is count upon you.

We count upon you as individuals. We prize your individuality. We work here in Washington to encourage and enlarge it -- to give your individualism new room and new reason to grow.

We are moved by a first principle that should be familiar to you as scholars -- Plato's timeless insight that "States are as the men are, they grow out of the characters of men."

National Greatness

We look to you for the qualities of national greatness. Your country looks to your character, your convictions, your individual commitment to the ideals of democracy -- and to the works of democracy without which the ideals are just so many dime-store decorations.

I do not believe that you want it said of your generation that you committed social suicide. I do not believe you want it said of any American boy or girl that they squandered their lives in small and petty pursuits. I do not want anyone to point his finger at a single one of you and say: There is the spoiled fruit of affluence -- soft at the core. And neither do we want the judgment on this Nation to read: Its children were pampered and without purpose.

You will have to earn your tomorrow. Many of your grandfathers and grandmothers -- some of your parents -- built this Nation by hand and will, by day and by night, against the elements, the circumstances and the odds. They succeeded because they looked not to themselves but to those who followed -- to their children and their children's children -- to the birthright of a better life their sweat and sacrifice would buy for you.

Yes, that was yesterday. But today the questions that hold the answer to the future are not very different. I ask them now of you -- and I ask them of every member of your generation: Who are you thinking of? What will you build? How much will you leave behind?

Not long ago they called you "The Silent Generation." But you proved them wrong and you didn't need the electric guitar to do it. Then it was "The Shook-Up Generation." And now it is "The Beat Generation." I do not believe the labels, but I do believe in you for what you are, individuals and individualists. I believe in your spirit and your spunk. I think you have shown plenty of both.

Metal Worker's Daughters

The Presidential Scholars Program has been running three years. In the first year the Commission picked a girl named Lucille Toly. In the third year, this year, they picked her sister, Caroline Toly. The odds against this are huge in such stiff competition. No wonder the Commission was so surprised when told that it had picked two girls from one family out of the 200 million people who live in this country. The girls are the daughters of Michael T. Toly, a sheetmetal worker in Seattle, Washington, a member of Local 99 of the Sheetmetal Workers Union.

A sheetmetal worker's daughters achieving intellectual distinction is an "only-in-America" story. All of us are proud that could happen here in our country.

There will always be some, of course, who share the view of the young man who last week excused himself by saying that "Patriotism just doesn't turn me on." Well, nobody wants to turn him off, either, No American, young or old, must ever be denied the right to dissent. No minority must be muzzled. Opinion and protest are the life breath of democracy -- even when it blows heavy.

But I urge you never to dissent merely because someone asked you to or because someone else does. Know why you protest. Know what it is that you dissent from. Always try, when you disagree, to offer a choice to the course that you disapprove. For dissent and protest must be the recourse of men who, in challenging the existing order, reason their way to a better order.

I was delayed seeing you a little bit today, because three distinguished Americans, Senator Morse, Professor Richard Neustadt, and a distinguished young lawyer, Mr. David Ginsburg, who make up an Emergency Labor Board, have been reasoning together between employer and employee to avoid a crippling Nation-wide airline strike.

There has been protest and there has been dissent. There has been a demand for change from the existing order. They want to go to a better order. But these three men, appointed by the President, have been hearing the pros and cons and the improvements and the problems. They have collected 2,000 pages of testimony. This is the way it should be.

We can always be a young country. We can always be a people of the future. We can be that Nation that was foreseen by Senator Cass of Michigan more than a century ago when a French visitor asked him: "If this be the youth of the Republic, what will be its old age?" "Sir," the Senator replied, "it will have no old age."

ELECTRIC COOPERATIVES

Following is a partial transcript of President Johnson's June 8 remarks to students representing the National Rural Electric Cooperative Association:

...I am delighted, with Mrs. Johnson, to greet and welcome you to the White House today. I believe deeply in your effort to learn more about your Government. I have strong feelings about the program which is responsible for your being here -- the Rural Electrification Program.

You are a bit young, perhaps, to remember the days when rural America lived in darkness; when farm families gathered in the kitchen in winter because it was the only warm room; when a mother did her sewing and her children did their homework by the flicker of a kerosene lamp.

You are too young, perhaps, to remember the first days of the Rural Electrification Administration -- that exciting time when lights went on across the land and families went into their front yards at night to see their windows glowing.

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There are many of us here, though, today, who do remember -- and for us, the greatest proof that all the effort, all the political combat, all the struggle was worth it, is to see the young people who have benefitted from our efforts.

Rural Electrification

Rural electrification wasn't an isolated event in our history. It was part of a continuing revolution in America which has brought the marvels of science and technology within the reach of all.

Today we are still in the midst of that revolution. And today, more than ever before, progress brings problems as well as promise.

The pace of change is getting faster. In earlier ages, man had trouble learning to change fast enough, but today we are faced with the difficulty of keeping up with our own progress. We have thrust ourselves headlong into the world of the satellite and the computer and we have learned again that power to produce means also the power to pollute; the power to change destroys old values.

You will inherit this technical revolution and you will face the same question it poses for your elders: Will man be the master or the servant of his inventions? Will our future be one of growing happiness or growing confusion?

You may someday learn your lessons by engaging in long conversations with a computer. Your diseases will be diagnosed with the help of a computer and you may gain added life from an artificial heart or transplanted organs. Every one of these developments raises serious questions for you -- some of them as deep as life itself.

In your future, jobs requiring little imagination can easily be performed by machines; clerical and maintenance work will grow more scarce. Your generation will be required to think seriously about the proper function of human beings -- when our old ideas of work are no longer useful to us any more.

Peace in Space

In your lifetime, space will become more crowded and less quiet. You will be faced not only with the problem of achieving peace on earth -- but perhaps on the moon as well.

It will be commonplace for you to see live television programs relayed by satellite from the other side of the world. You will dial calls to Europe and Africa. And this progress, too, will present a problem: What good is it to know more about the world, unless we understand more?

A while ago I received a report from the National Commission on Technology and the Economy -- a study which lays down some stern challenges for the next 10 years.

By 1975, just a few years away, the experts tell me, more than 18 million more Americans will need jobs than in 1964. So, we must provide about 1.7 million additional jobs each year for the next 10 years.

More than a million people -- perhaps you among them -- will leave our rural areas in the next 10 years to live in our cities. Will our cities then be able to provide a decent life for this increased population?

By 1975, the demand for unskilled workers will decrease even more -- and, as that happens, our obligation to educate and train our citizens will be even greater.

Even while we struggle with the demands of fast change, our nation must tackle an urgent backlog of unfinished jobs -- in education, in health, transportation, pollution control, resource development, recreation.

Our changing future is going to require the talents of more and better public servants than ever before. There can be no higher or more urgent calling for you as you face your future.

But the new age will also require much of those who do not enter public service -- housewives and the businessmen. If we are to solve our problems, our citizens must develop a new sense of citizenship -- a new concern for the public good. I pointed this out in our colleges and universities throughout the land. I spoke of it at the University of Nebraska a few years ago, I spoke of it at the University of Kentucky. And I remind you of it again here today.

We simply can't afford any longer the luxury of indifference -- the indifference of the manufacturer who pollutes our streams, or the indifference of voters who deny their responsibility to support education.

The future will require more cooperation. To paraphrase Ben Franklin: We must all pull together -- or our society could pull apart altogether.

EMERGENCY LABOR BOARD

Following is a partial transcript of President Johnson's June 7 remarks on receiving the report of the Airlines Dispute Emergency Board:

...The dispute between the airline companies and the unions threatens to cripple the vital flow of people and products across America. These airlines fly six out of every 10 domestic passenger miles. Over 35,000 airline employees are involved -- from mechanics to flight deck personnel.

The issues are complex and important. Eight national issues involved all of the companies; 40 local issues involved four of the companies. The recommendations of the Board reflect the highest order of judgment, imagination, and wisdom.

I appreciate the work that this Board has done. Its three members, Senator Wayne Morse of Oregon, Professor Richard Neustadt of Harvard University, and David Ginsburg, a Washington attorney, have unselfishly taken time from their busy lives to devote to this case.

Together, these men worked many long days patiently gathering and analyzing the evidence. They heard testimony from all of the parties, presented with great conviction and skill. A record of almost 2,000 pages has been compiled. On this record, this independent and able Board arrived at its recommendations.

Those recommendations form the framework for a just and prompt settlement, which is in the national interest.

Without such a settlement, there would be a disruption of the movement of men and materials needed to support our commitments to freedom's cause throughout the world. Hundreds of thousands of citizens who depend on rapid, convenient airline service will have to go without it.

I do not believe that either labor or management wants this.

Ever since the day I became President, I have asked labor and management to work together with me to improve the lives of every American. They have responded to this call. Today, they have another opportunity -- and obligation -- to show the Nation the progress that can come from mutual trust and cooperation.

NICARAGUAN PRESIDENT

Following is a partial transcript of June 9 remarks by President Johnson welcoming President Rene Schick Gutierrez of Nicaragua to the White House:

...Mr. President, I want to welcome you to Washington this morning on behalf of the United States Government and of the American people.

Our two countries share many ties and many interests. One of the strongest stands before us: your Ambassador and the Dean of our Diplomatic Corps, Dr. Sevilla-Sacasa, who has been untiring in his efforts, constant in his purpose, and always has attempted to serve not only the interests of the people of your country, but the people of this entire hemisphere.

It is always good, Mr. President, when the heads of governments can come together. Each of us, each day, constantly faces new challenges. We here in the United States, for example, are now engaged in a great battle to eliminate the last elements of racial discrimination in this society of ours.

Mr. President, we are trying so hard to improve our entire educational system in this country. Because in every society edu-

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cation is the ultimate basis for responsible citizenship, for economic growth, for social progress.

We are determined, Mr. President, to improve the health of our young and of our old. In the days ahead we will take some of the most revolutionary steps ever taken since the founding of our Republic in advancing health measures for the benefit of all the people of this country.

We are very much determined to keep our land beautiful in the face of an industrial civilization which threatens the landscape, the air, and the water.

I know that in your country, you too, Mr. President, face similar problems as your people strive to create a modern Nicaragua and as they desire to play their part as citizens of the hemisphere.

I am particularly proud that we could pay respect and honor -- not just to you as President, although we are pleased that you could stop here on your visit to this country, but to pay respect and honor to every Nicaraguan citizen. We are especially pleased to observe Nicaragua's loyal collaboration in the Central American Common Market effort.

We know that in the field of education, in the field of health, and in the field of social betterment, no geographical lines divide human beings. Wherever the human heart beats, wherever the head thinks, people everywhere want the same things: better education for their children, better health for their families, better homes to live in.

I congratulate you, Mr. President, along with your Central American neighbors, for the progress that has been made toward a better and a fuller economic integration. We feel this is essential to improve the economic lot of the good people who inhabit this continent with us. Your visit coincides closely with the fifth anniversary of the Common Market endeavor which was so happily marked last week.

STUDENT LOANS

Following is a partial transcript of President Johnson's June 10 remarks after discussing the guaranteed student loan program with representatives of the American Bankers Association: *(For story, see p. 1317.)*

I have just come from a very high level meeting behind closed doors with some of the country's leading bankers. But before the stock market begins to flutter, I want to reassure you that I am meeting with these bankers not because we have any grave problems, but because we do have a great program.

These gentlemen with me this morning represent financial institutions throughout the nation. They have given very strong support to the guaranteed student loan program which is a vital feature of the Higher Education Act of 1965.

Today, they have told me of the plans that they have made and what they are doing to make this program an outstanding success.

Under this new loan program, families will finance college education for their children in the same way that they finance the purchase of a home: through long-term, federally guaranteed private loans.

For millions of families, the financial burden of college education will now be lifted; new opportunities will open for American students.

Creative Federalism

This program is one more example of creative federalism. Its success depends not so much on the guarantee by the Federal Government as it does on the imagination and the public spirit of the private lending institutions throughout the country.

The American Bankers Association has been working for months to guarantee the complete success of this program.

I have been delighted to meet with its leaders today, to discuss with them some of the details and some of their experiences, to review some of the material that they have assembled, and some of the recommendations they are making to their member banks.

I have received their report. It is encouraging. Their attitude is a fine one. As a result of this meeting and the work they have done, the legislation we have already passed, many thousands of young people will be attending college who otherwise would not have been able to attend. We will further strengthen our free enterprise system.

CAPITOL BRIEFS

(Continued from p. 1317)

Civil Rights March. The "Meredith March" through Mississippi, taken up by civil rights leaders after the June 6 shooting of James H. Meredith, continued through the week ending June 17. There was disagreement among its leaders, however, as to the purpose and route of the march. Some leaders insisted that the march concentrate on registering Negroes to vote along the way, while others contended that it should dramatize the need for federal legislation to protect civil rights workers. The size of the march varied, averaging about 300 persons, and its goal remained Jackson, Miss. Meredith, meanwhile, continued his recuperation in New York City. *(Weekly Report p. 1242)*

Voter Literacy Test. The Justice Department June 8 filed a consent agreement in federal district court in the District of Columbia which would end suspension of Arizona's voter literacy test under the Voting Rights Act of 1965 in three counties (Apache, Navajo and Coconino). The Department said investigation disclosed that the test had not been used to discriminate against voters. One other Arizona county, Yuma, was not part of the case.

The Department May 24 agreed to Alaska's request to end suspension of its literacy tests. Still covered by the Act were Alabama, Georgia, Louisiana, Mississippi, South Carolina, Virginia, 40 counties in North Carolina and one county each in Arizona, Hawaii and Idaho. *(Weekly Report p. 1161)*

COCOM. Discussions were concluded May 27 in Paris by the Coordinating Committee (COCOM) on its periodic review of trade in strategic goods. The review had been in progress intermittently since last November. COCOM is a voluntary international group of 15 nations -- all NATO members except Iceland, plus Japan -- which establishes a list of strategic and critical products that are to be denied export to the Communist world on the ground that they enhance the military-industrial base of Communist countries. As the COCOM list must be agreed to unanimously, the U.S. Commerce Department maintains its own list of strategic goods that it unilaterally denies Communist bloc countries. *(For Fact Sheet on trade controls and trade with Communists, see 1965 Weekly Report p. 383.)*

CATV. Judge William B. Herlands of the U.S. District Court, Southern Division of New York, May 23 ruled that a community antenna television (CATV) system that without permission picked up television programs and relayed them into subscribers' homes via cable violated existing copyright laws. The suit was brought by United Artists Corp. against Fortnightly Corp., a West Virginia CATV operator. Judge Herlands June 2 granted Fortnightly permission to appeal his decision to the U.S. Court of Appeals. In a related development, the Federal Communications Commission (FCC) May 27 issued its first "stop" order against a big-city CATV system bringing in programs from too-distant television stations. The order, issued to Buckeye Cablevision Inc., of Toledo, Ohio, directed the system to stop carrying programs from a station in Lansing, Mich.

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(Corresponding to Congressional Record Roll-Call Vote Nos. 133, 134, 135, 137, 141.)

House Votes Food for Freedom Bill To Extend, Revise PL 480; Authorizes Military Procurement Funds, Overseas Buildings

70. HR 14929. Food for Freedom Act of 1966. Agriculture Committee amendment increasing the maximum repayment period for long-term dollar credit sales under Title I from 20 to 40 years. Accepted 193-165: R 2-121; D 191-44 (ND 150-11; SD 41-33), June 9, 1966. A "yea" was a vote supporting the President's position. *(See story p. 1265.)*

71. HR 14929. Walker (R Miss.) motion to recommit the bill to the House Agriculture Committee with instructions to ban dollar (as well as local currency) sales to all Communist countries (aimed at Poland and Yugoslavia) and to prohibit Government resale of commodities at less than 115 percent of the current price-support level or less than 80 percent of parity, whichever was higher, whenever carryover was less than 50 (rather than 25) percent. Rejected 157-200: R 118-6; D 39-194 (ND 6-154; SD 33-40), June 9, 1966. A "nay" was a vote supporting the President's position.

72. HR 14929. Passage of the Food for Freedom Act of 1966, extending for two years most aspects of the existing Food for Peace program (PL 480) and amending PL 480 to change its emphasis from disposal of surplus farm commodities to planned production for export, to require a transition from sales for foreign currencies to sales for dollars and to place emphasis on the efforts of recipient countries to improve their own agricultural production and undertake population control programs. Passed 333-20: R 111-10; D 222-10 (ND 154-5; SD 68-5), June 9, 1966. A "yea" was a vote supporting the President's position.

73. HR 14019. Passage of the Foreign Service Buildings Act of 1966 authorizing appropriations of $28,210,000 for acquisition of overseas buildings and additional $1.6 million for an enlarged U.S. chancery in Saigon and $25,350,000 for maintenance and repair during fiscal 1968-69. Passed 290-3: R 99-1; D 191-2 (ND 117-2; SD 74-0), June 13, 1966. The President did not take a position on the bill. *(See story p. 1268.)*

74. S 2950. Passage of the bill authorizing appropriations of $10,579,500,000 in fiscal 1967 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles and $7,278,559,000 for all defense research and development activities (R&D), a total of $17,858,059,000, and providing an across-the-board military pay increase of 3.2 percent. Passed 356-2: R 116-1; D 240-1 (ND 155-1; SD 85-0), June 14, 1966. The President did not take a position on the bill. *(See story p. 1267.)*

	70	71	72	73	74
ALABAMA					
3 Andrews	N	Y	Y	Y	Y
8 Jones	Y	N	Y	Y	Y
5 Selden	N	Y	Y	Y	Y
4 Andrews	N	Y	Y	Y	Y
6 Buchanan	N	Y	N	Y	?
2 Dickinson	N	Y	N	?	Y
1 Edwards	N	Y	N	Y	Y
7 Martin	N	Y	N	Y	?
ALASKA					
AL Rivers	✓	?	?	?	?
ARIZONA					
3 Senner	?	?	?	?	?
2 Udall	Y	N	Y	Y	Y
1 Rhodes	N	Y	N	?	?
ARKANSAS					
1 Gathings	N	N	Y	Y	Y
4 Vacancy					
2 Mills	?	?	?	Y	Y
3 Trimble	?	?	?	?	Y
CALIFORNIA					
5 Burton	Y	N	Y	Y	Y
7 Cohelan	Y	N	Y	Y	Y
33 Dyal	?	?	?	Y	Y
9 Edwards	Y	N	Y	?	Y
18 Hagen	Y	N	Y	Y	Y
34 Hanna	Y	N	Y	Y	Y
2 Johnson	Y	N	Y	Y	Y
4 Leggett	N	N	Y	Y	Y
15 McFall	Y	N	Y	Y	Y
8 Miller	✓	?	?	Y	Y
3 Moss	?	?	?	?	?
16 Sisk	Y	N	?	Y	Y
38 Tunney	Y	N	Y	Y	Y
37 Van Deerlin	Y	N	N	Y	Y
14 Vacancy					
1 Clausen	X	?	?	?	?
10 Gubser	X	?	?	?	Y
6 Mailliard	N	Y	Y	Y	Y
12 Talcott	X	?	?	Y	Y
13 Teague	N	Y	Y	Y	Y
35 Utt	X	?	?	?	?
36 Wilson	N	Y	Y	Y	Y
11 Younger	N	Y	Y	Y	Y

	70	71	72	73	74
Los Angeles Co.					
29 Brown	?	?	?	Y	N
25 Cameron	N	N	N	Y	Y
22 Corman	Y	N	N	Y	Y
21 Hawkins	Y	N	Y	Y	Y
19 Holifield	✓	?	?	Y	Y
17 King	Y	N	Y	Y	Y
26 Rees	?	?	?	?	Y
30 Roybal	Y	N	Y	Y	Y
31 Wilson	?	?	?	Y	Y
28 Bell	N	Y	?	Y	Y
23 Clawson	X	?	?	Y	Y
32 Hosmer	X	?	?	?	Y
24 Lipscomb	N	Y	Y	Y	Y
27 Reinecke	N	Y	Y	Y	Y
20 Smith	N	Y	Y	Y	Y
COLORADO					
4 Aspinall	Y	N	Y	Y	Y
3 Evans	Y	N	Y	Y	Y
2 McVicker	Y	N	Y	Y	Y
1 Rogers	Y	N	Y	Y	Y
CONNECTICUT					
1 Daddario	Y	N	Y	?	Y
3 Giaimo	Y	N	Y	?	Y
6 Grabowski	Y	N	Y	?	Y
4 Irwin	Y	N	Y	Y	Y
5 Monagan	Y	N	Y	Y	Y
2 St. Onge	Y	N	Y	?	Y
DELAWARE					
AL McDowell	Y	N	Y	?	Y
FLORIDA					
2 Bennett	Y	Y	Y	Y	Y
4 Fascell	Y	N	Y	Y	Y
9 Fuqua	N	Y	Y	Y	Y
10 Gibbons	Y	N	Y	Y	Y
7 Haley	N	Y	N	Y	Y
5 Herlong	?	?	?	Y	Y
8 Matthews	Y	N	Y	Y	Y
3 Pepper	Y	N	Y	?	Y
6 Rogers	N	Y	Y	Y	Y
1 Sikes	N	Y	?	?	?
12 Cramer	N	Y	Y	Y	Y
11 Gurney	N	Y	Y	Y	Y

	70	71	72	73	74
GEORGIA					
7 Davis	N	Y	N	Y	Y
6 Flynt	?	?	?	?	?
1 Hagan	X	?	?	Y	Y
9 Landrum	?	?	?	Y	Y
4 Mackay	N	N	Y	Y	Y
2 O'Neal	N	Y	N	Y	Y
10 Stephens	N	Y	Y	Y	Y
8 Tuten	N	N	Y	Y	Y
5 Weltner	Y	N	Y	Y	Y
3 Callaway	N	Y	N	?	?
HAWAII					
AL Matsunaga	?	?	?	?	?
AL Mink	Y	N	Y	Y	Y
IDAHO					
1 White	Y	N	Y	?	?
2 Hansen	N	Y	Y	Y	Y
ILLINOIS					
21 Gray	Y	N	Y	?	Y
24 Price	Y	N	Y	Y	Y
19 Schisler	Y	N	Y	Y	Y
23 Shipley	Y	N	Y	Y	Y
16 Anderson	N	Y	Y	Y	Y
17 Arends	N	Y	Y	Y	Y
14 Erlenborn	N	Y	Y	?	?
20 Findley	N	Y	Y	?	Y
12 McClory	N	Y	Y	Y	Y
18 Michel	N	Y	Y	Y	Y
15 Reid	N	Y	Y	?	Y
22 Springer	N	Y	Y	?	Y
Chicago--Cook Co.					
7 Annunzio	Y	N	Y	?	?
1 Dawson	?	?	?	?	?
5 Kluczynski	Y	N	?	?	Y
3 Murphy	Y	N	Y	?	?
2 O'Hara	?	?	?	?	?
11 Pucinski	N	Y	Y	?	?
6 Ronan	Y	N	Y	?	?
8 Rostenkowski	Y	N	Y	?	?
9 Yates	Y	N	Y	Y	Y
10 Collier	N	Y	Y	Y	Y
4 Derwinski	N	Y	Y	?	?
13 Rumsfeld	N	Y	Y	Y	Y

- KEY -

- Y Record Vote For (yea).
- ✓ Paired For.
- ‡ Announced For CQ Poll For.
- N Record Vote Against (nay).
- X Paired Against.
- \- Announced Against. CQ Poll Against.
- ? Absent, General Pair, "Present." Not announce or answer Poll

	70	71	72	73	74
INDIANA					
3 Brademas	Y	N	Y	Y	Y
8 Denton	?	?	?	Y	Y
9 Hamilton	Y	N	Y	Y	Y
11 Jacobs	Y	N	Y	Y	‡
1 Madden	Y	N	Y	Y	?
5 Roush	N	N	Y	Y	Y
4 Adair	N	Y	Y	Y	Y
7 Bray	N	Y	Y	Y	Y
2 Halleck	N	Y	Y	?	?
10 Harvey	N	Y	Y	?	?
6 Roudebush	N	Y	Y	?	Y
IOWA					
4 Bandstra	Y	N	Y	Y	Y
2 Culver	Y	N	Y	Y	Y
6 Greigg	Y	N	Y	Y	Y
7 Hansen	Y	N	Y	Y	Y
1 Schmidhauser	Y	N	Y	Y	Y
5 Smith	Y	N	Y	Y	?
3 Gross	N	Y	Y	Y	Y
KANSAS					
1 Dole	N	Y	Y	Y	Y
3 Ellsworth	X	?	?	?	?
4 Shriver	N	Y	Y	Y	Y
2 Mize	?	?	?	Y	Y
5 Skubitz	N	Y	Y	Y	Y
KENTUCKY					
4 Chelf	Y	N	Y	Y	Y
3 Farnsley	Y	N	Y	Y	Y
2 Natcher	Y	Y	Y	Y	Y

Democrats in this type; *Republicans in italics*

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CQ House Votes 70 through 74.

(Corresponding to Congressional Record Roll-Call VoteNos. 133, 134, 135, 137, 141.)

7 Perkins	Y	N	Y	Y	Y
1 Stubblefield	Y	N	Y	Y	Y
6 Watts	Y	N	Y	Y	Y
5 Carter	N	Y	N	Y	Y
LOUISIANA					
2 Boggs	Y	N	Y	Y	Y
1 Hebert	?	?	?	?	Y
8 Long, S.O.	?	?	?	?	Y
6 Morrison	?	?	?	Y	Y
5 Passman	N	Y	N	Y	Y
7 Edwards	?	?	?	?	Y
4 Waggonner	?	?	?	Y	?
3 Willis	?	?	?	?	Y
MAINE					
2 Hathaway	Y	N	Y	Y	Y
1 Tupper	?	?	?	Y	Y
MARYLAND					
4 Fallon	N	N	Y	Y	Y
7 Friedel	Y	N	Y	Y	Y
3 Garmatz	Y	N	Y	Y	Y
2 Long	Y	N	Y	Y	Y
5 Machen	Y	N	Y	Y	Y
AL Sickles	Y	N	Y	?	?
6 Mathias	N	N	Y	Y	Y
1 Morton	N	Y	Y	Y	Y
MASSACHUSETTS					
2 Boland	Y	N	Y	?	Y
11 Burke	Y	N	Y	Y	Y
4 Donohue	Y	N	Y	?	Y
7 Macdonald	?	?	?	Y	Y
9 McCormack					
8 O'Neill	Y	N	Y	?	Y
3 Philbin	Y	N	Y	?	Y
6 Bates	N	Y	Y	Y	Y
1 Conte	N	N	Y	Y	Y
12 Keith	N	Y	Y	Y	Y
10 Martin	N	Y	Y	?	?
5 Morse	N	N	Y	?	Y
MICHIGAN					
11 Clevenger	Y	N	Y	Y	Y
19 Farnum	Y	N	Y	?	Y
7 Mackie	Y	N	Y	Y	?
12 O'Hara	Y	N	Y	Y	?
3 Todd	Y	N	Y	Y	Y
2 Vivian	Y	N	Y	?	Y
18 Broomfield	N	Y	Y	Y	Y
10 Cederberg	N	Y	Y	?	?
6 Chamberlain	N	Y	Y	Y	Y
5 Ford	N	Y	Y	Y	Y
9 Vacancy					
8 Harvey	?	?	?	Y	Y
4 Hutchinson	N	Y	Y	Y	Y
Detroit--Wayne Co.					
1 Conyers	Y	?	Y	?	?
13 Diggs	Y	N	Y	?	?
16 Dingell	Y	N	Y	Y	Y
15 Ford	Y	N	Y	Y	Y
17 Griffiths	Y	N	Y	Y	Y
14 Nedzi	Y	N	Y	Y	Y
MINNESOTA					
8 Blatnik	?	?	?	Y	Y
5 Fraser	Y	N	Y	Y	Y
4 Karth	Y	N	Y	Y	Y
6 Olson	Y	N	Y	Y	Y
7 Langen	N	Y	Y	Y	Y
3 MacGregor	N	Y	Y	Y	?
2 Nelsen	N	Y	Y	Y	Y
1 Quie	N	Y	Y	Y	Y
MISSISSIPPI					
1 Abernethy	N	Y	Y	?	?
5 Colmer	?	?	?	Y	Y
2 Whitten	N	Y	Y	Y	Y
3 Williams	?	?	?	?	?
4 Walker	N	Y	N	?	?
MISSOURI					
5 Bolling	?	?	?	?	Y
6 Hull	Y	N	Y	Y	Y
9 Hungate	Y	N	Y	Y	Y
8 Ichord	N	Y	N	Y	Y
10 Jones	Y	N	Y	?	?
1 Karsten	Y	N	Y	Y	Y
4 Randall	Y	N	Y	Y	Y
3 Sullivan	Y	N	Y	Y	Y
2 Curtis	N	Y	?	Y	N
7 Hall	N	Y	Y	Y	Y
MONTANA					
1 Olsen	Y	N	Y	?	Y
2 Battin	N	Y	Y	Y	Y
NEBRASKA					
1 Callan	Y	N	Y	Y	Y
2 Cunningham	N	Y	Y	Y	Y
3 Martin	N	Y	Y	Y	Y
NEVADA					
AL Baring	?	?	?	?	?
NEW HAMPSHIRE					
1 Huot	Y	N	Y	?	Y
2 Cleveland	N	Y	Y	Y	Y
NEW JERSEY					
14 Daniels	Y	N	Y	?	?
13 Gallagher	Y	N	Y	?	Y
9 Helstoski	Y	N	Y	Y	Y
3 Howard	Y	N	Y	Y	Y
8 Joelson	Y	N	Y	Y	Y
12 Krebs	Y	N	Y	?	?
11 Minish	✓	?	?	?	Y
2 McGrath	Y	N	Y	Y	Y
15 Patten	Y	N	Y	Y	Y
10 Rodino	Y	N	Y	?	Y
4 Thompson	?	?	?	?	?
1 Cahill	N	Y	Y	?	?
6 Dwyer	N	Y	Y	Y	Y
5 Frelinghuysen	N	N	Y	?	Y
7 Widnall	N	Y	Y	Y	Y
NEW MEXICO					
AL Morris	?	?	?	Y	Y
AL Walker	N	Y	Y	Y	Y
NEW YORK					
27 Dow	Y	N	Y	‡	Y
41 Dulski	Y	N	Y	‡	‡
34 Hanley	Y	N	Y	Y	Y
39 McCarthy	Y	N	Y	‡	‡
29 O'Brien	Y	N	Y	?	?
25 Ottinger	Y	N	Y	N	Y
1 Pike	Y	N	Y	Y	Y
28 Resnick	Y	N	Y	Y	Y
35 Stratton	Y	N	Y	Y	Y
5 Tenzer	Y	N	Y	Y	Y
3 Wolff	N	N	Y	Y	Y
37 Conable	N	Y	Y	Y	Y
38 Goodell	N	Y	Y	Y	Y
2 Grover	N	Y	Y	Y	Y
36 Horton	N	Y	Y	Y	Y
30 King	N	Y	Y	Y	Y
31 McEwen	N	Y	Y	?	?
32 Pirnie	N	Y	Y	Y	Y
26 Reid	Y	N	Y	Y	Y
33 Robison	N	Y	Y	Y	Y
40 Smith	N	Y	?	?	Y
4 Wydler	N	Y	Y	Y	Y
New York City					
7 Addabbo	Y	N	Y	?	Y
23 Bingham	Y	N	Y	Y	Y
15 Carey	Y	N	Y	Y	Y
10 Celler	Y	N	Y	?	Y
9 Delaney	Y	N	Y	Y	Y
19 Farbstein	Y	N	Y	?	?
22 Gilbert	Y	N	Y	?	?
12 Kelly	Y	N	Y	Y	Y
11 Keogh	✓	?	?	?	Y
13 Multer	✓	?	?	?	?
16 Murphy	?	?	?	?	Y
18 Powell	?	?	?	?	?
14 Rooney	✓	?	?	?	?
8 Rosenthal	Y	N	Y	Y	Y
20 Ryan	Y	N	Y	Y	Y
21 Scheuer	Y	N	Y	?	Y
24 Fino	X	?	?	?	?
6 Halpern	Y	Y	Y	Y	Y
17 Kupferman	?	Y	Y	?	Y
NORTH CAROLINA					
1 Jones	Y	N	Y	Y	Y
4 Cooley	Y	N	Y	?	Y
2 Fountain	Y	Y	Y	Y	Y
3 Henderson	Y	N	Y	Y	Y
6 Kornegay	Y	Y	Y	Y	Y
7 Lennon	✓	?	?	Y	Y
5 Scott	?	?	?	?	Y
11 Taylor	Y	Y	Y	Y	?
10 Whitener	Y	Y	Y	Y	Y
9 Broyhill	N	Y	Y	Y	Y
8 Jonas	N	Y	Y	Y	Y
NORTH DAKOTA					
2 Redlin	Y	Y	Y	?	Y
1 Andrews	N	Y	Y	Y	Y
OHIO					
9 Ashley	Y	N	Y	Y	Y
20 Feighan	Y	N	Y	Y	Y
1 Gilligan	?	?	?	Y	Y
18 Hays	Y	N	Y	Y	Y
19 Kirwan	Y	N	Y	?	Y
3 Love	Y	N	Y	Y	Y
10 Moeller	Y	N	Y	Y	Y
15 Secrest	N	Y	Y	N	Y
AL Sweeney	?	?	?	?	Y
21 Vanik	Y	N	Y	Y	Y
17 Ashbrook	N	Y	Y	?	Y
14 Ayres	N	Y	Y	Y	Y
8 Betts	N	Y	Y	Y	Y
22 Bolton	?	?	?	?	?
16 Bow	N	Y	Y	?	Y
7 Brown, Jr.	N	Y	Y	?	Y
2 Clancy	N	Y	Y	Y	Y
12 Devine	N	Y	Y	Y	Y
6 Harsha	N	Y	Y	N	Y
5 Latta	N	Y	Y	Y	Y
4 McCulloch	N	Y	Y	Y	Y
23 Minshall	N	Y	Y	Y	Y
13 Mosher	?	?	?	?	Y
11 Stanton	N	Y	Y	Y	Y
OKLAHOMA					
3 Albert	Y	N	Y	Y	Y
2 Edmondson	Y	N	Y	Y	Y
5 Jarman	Y	Y	Y	Y	Y
6 Johnson	Y	N	Y	Y	Y
4 Steed	Y	Y	Y	Y	Y
1 Belcher	N	Y	Y	Y	Y
OREGON					
4 Duncan	Y	N	Y	?	Y
3 Green	Y	N	Y	?	Y
2 Ullman	Y	N	Y	Y	Y
1 Wyatt	?	?	?	?	?
PENNSYLVANIA					
25 Clark	Y	N	Y	?	Y
19 Craley	N	N	Y	Y	Y
21 Dent	✓	?	?	Y	Y
11 Flood	?	?	?	?	Y
20 Holland	Y	N	Y	Y	Y
14 Moorhead	Y	N	Y	Y	Y
26 Morgan	Y	N	Y	Y	Y
6 Rhodes	Y	N	Y	Y	Y
15 Rooney	Y	N	Y	?	Y
24 Vigorito	Y	Y	Y	?	Y
18 Corbett	N	N	Y	?	?
8 Curtin	N	Y	Y	Y	Y
9 Dague	N	Y	Y	Y	Y
27 Fulton	N	Y	Y	Y	Y
23 Johnson	N	Y	Y	?	Y
16 Kunkel	N	Y	Y	Y	Y
10 McDade	N	Y	Y	Y	Y
22 Saylor	N	Y	Y	Y	Y
17 Schneebeli	N	Y	Y	Y	Y
13 Schweiker	N	Y	Y	Y	Y
7 Watkins	N	Y	Y	Y	Y
12 Whalley	N	Y	Y	?	Y
Philadelphia City					
1 Barrett	Y	N	Y	Y	Y
3 Byrne	Y	N	Y	Y	Y
5 Green	Y	N	Y	Y	Y
2 Nix	?	?	?	?	Y
4 Toll	?	?	?	?	?
RHODE ISLAND					
2 Fogarty	Y	N	Y	?	?
1 St. Germain	Y	N	Y	Y	Y
SOUTH CAROLINA					
4 Ashmore	?	?	?	?	?
3 Dorn	N	Y	Y	?	?
5 Gettys	N	N	Y	Y	?
6 McMillan	?	?	?	?	?
1 Rivers	?	?	?	Y	Y
2 Watson	N	Y	N	Y	Y
SOUTH DAKOTA					
2 Berry	N	Y	Y	Y	Y
1 Reifel	N	Y	Y	?	Y
TENNESSEE					
6 Anderson	Y	N	Y	Y	Y
8 Everett	N	N	Y	Y	Y
4 Evins	✓	?	?	?	?
5 Fulton	?	?	?	Y	Y
9 Grider	Y	N	Y	Y	Y
7 Murray	?	?	?	?	?
3 Brock	N	Y	Y	Y	Y
2 Duncan	N	Y	Y	Y	Y
1 Quillen	N	Y	N	?	Y
TEXAS					
3 Beckworth	Y	N	Y	Y	Y
2 Brooks	Y	N	Y	?	Y
17 Burleson	N	Y	Y	Y	Y
5 Cabell	N	N	Y	?	Y
22 Casey	N	N	Y	Y	Y
15 De la Garza	?	?	?	Y	Y
7 Dowdy	N	Y	Y	Y	Y
21 Fisher	Y	Y	Y	Y	Y
20 Gonzalez	Y	N	Y	Y	Y
19 Mahon	Y	Y	Y	Y	Y
1 Patman	Y	N	Y	Y	Y
10 Pickle	N	N	Y	Y	Y
11 Poage	Y	N	Y	Y	Y
AL Pool	N	Y	N	Y	Y
13 Purcell	Y	?	Y	Y	Y
4 Roberts	N	N	Y	Y	Y
18 Rogers	N	Y	Y	Y	Y
6 Teague	N	Y	Y	?	Y
8 Thomas, L.	Y	N	Y	Y	Y
9 Thompson	Y	N	Y	Y	Y
16 White	N	N	Y	Y	Y
12 Wright	Y	N	Y	?	Y
14 Young	Y	N	Y	Y	?
UTAH					
2 King	Y	N	Y	?	Y
1 Burton	N	Y	Y	Y	Y
VERMONT					
AL Stafford	N	Y	Y	?	?
VIRGINIA					
4 Abbitt	?	?	?	Y	Y
1 Downing	N	Y	Y	?	Y
2 Hardy	?	?	?	?	?
9 Jennings	Y	N	Y	Y	Y
7 Marsh	N	Y	Y	Y	Y
3 Satterfield	N	Y	Y	?	Y
8 Smith	N	Y	Y	Y	Y
5 Tuck	N	Y	Y	?	Y
10 Broyhill	N	Y	Y	Y	Y
6 Poff	N	Y	Y	Y	Y
WASHINGTON					
7 Adams	N	N	Y	Y	Y
5 Foley	Y	N	Y	Y	Y
3 Hansen	Y	N	Y	?	Y
6 Hicks	Y	N	Y	Y	Y
2 Meeds	Y	N	Y	?	?
4 May	N	Y	Y	Y	Y
1 Pelly	X	?	?	Y	Y
WEST VIRGINIA					
4 Hechler	Y	N	Y	Y	Y
5 Kee, J.	Y	N	Y	?	Y
3 Slack	Y	N	Y	Y	Y
2 Staggers	Y	N	Y	Y	Y
1 Moore	N	Y	Y	Y	Y
WISCONSIN					
2 Kastenmeier	Y	N	Y	Y	Y
6 Race	?	?	?	Y	Y
5 Reuss	Y	N	N	Y	Y
1 Stalbaum	Y	N	Y	?	Y
4 Zablocki	Y	N	Y	?	Y
8 Byrnes	N	Y	Y	Y	Y
7 Laird	N	Y	Y	?	Y
10 O'Konski	N	Y	Y	Y	Y
3 Thomson	N	Y	Y	Y	Y
9 Davis	N	Y	Y	Y	Y
WYOMING					
AL Roncalio	Y	N	Y	?	?

Democrats in this type; *Republicans in italics*

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CQ Senate Votes 52 through 57.

(Corresponding to Congressional Record Roll-Call VoteNos. 89, 90, 91, 92, 93, 94.)

Senate Passes 'Truth-in-Packaging' Bill; Retains Provision Authorizing Federal Size Standards; Votes on Farm Measure

52. S 985. Fair Packaging and Labeling Act. Cotton (R N.H.) amendment to delete sections authorizing federal officials to establish standard weights and quantities for the packaging of commodities covered by the bill. Rejected 32-53: R 25-4; D 7-49 (ND 1-36; SD 6-13), June 8, 1966. A "nay" was a vote supporting the President's position. *(See story p. 1273.)*

53. HR 15151. Permit farmers to plant alternate crops on land on which natural disasters had prevented the planting of cotton, wheat or feed grains and still be eligible for federal farm support payments. Williams (R Del.) motion to delay consideration of the conference report until June 15. Rejected 24-59: R 21-4; D 3-55 (ND 3-34; SD 0-21), June 9, 1966. The President did not take a position on the motion. *(See story p. 1276.)*

54. S 985. Fair Packaging and Labeling Act. Magnuson (D Wash.) motion to table Morton (R Ky.) amendment to add to the bill the provisions of proposed "fair trade" or "Quality Stabilization" legislation that would permit manufacturers to fix and maintain the minimum retail prices of their nationally branded goods. Tabling motion adopted 51-29: R 2-23; D 49-6 (ND 30-6; SD 19-0), June 9, 1966. A "yea" was a vote supporting the President's position. *(See story p. 1273.)*

55. S 985. Cotton amendment to extend coverage of the bill to all retail products enclosed in a package. Rejected 7-69: R 6-17; D 1-52 (ND 0-34; SD 1-18), June 9, 1966. The President did not take a position on the amendment.

56. S 985. Dirksen (R Ill.) motion to refer the bill to the Judiciary Committee "for further consideration." Rejected 19-64: R 17-8; D 2-56 (ND 0-38; SD 2-18), June 9, 1966. A "nay" was a vote supporting the President's position.

57. S 985. Passage of the bill, the Fair Packaging and Labeling Act, authorizing the Secretary of Health, Education and Welfare and the Federal Trade Commission to establish standard weights and quantities for the packaging of commodities covered by the bill (largely nondurable household and personal goods) and to require that certain specified information about the product appear in clear, simple and unqualified form on package labels. Passed 72-9: R 15-8; D 57-1 (ND 38-0; SD 19-1), June 9, 1966. A "yea" was a vote supporting the President's position.

	52	53	54	55	56	57
ALABAMA						
Hill	N	N	Y	N	N	Y
Sparkman	N	N	Y	N	N	Y
ALASKA						
Bartlett	N	N	Y	N	N	Y
Gruening	-	?	‡	-	-	‡
ARIZONA						
Hayden	?	?	?	?	?	?
Fannin	Y	Y	N	N	Y	N
ARKANSAS						
Fulbright	N	N	Y	-	N	Y
McClellan	✓	N	Y	N	N	Y
CALIFORNIA						
Kuchel	?	X	?	?	?	‡
Murphy	Y	Y	N	Y	Y	Y
COLORADO						
Allott	✓	?	?	?	?	✓
Dominick	Y	Y	N	N	N	✓
CONNECTICUT						
Dodd	N	N	Y	N	N	Y
Ribicoff	N	N	Y	N	N	Y
DELAWARE						
Boggs	Y	Y	N	N	N	Y
Williams	Y	Y	N	N	Y	Y
FLORIDA						
Holland	Y	N	Y	N	N	Y
Smathers	N	N	Y	N	N	Y
GEORGIA						
Russell	N	N	?	N	Y	Y
Talmadge	Y	N	Y	N	N	Y
HAWAII						
Inouye	N	N	Y	N	N	Y
Fong	X	?	✓	-	X	‡
IDAHO						
Church	N	-	‡	-	-	‡
Jordan	Y	✓	X	-	✓	‡
ILLINOIS						
Douglas	N	N	Y	N	N	Y
Dirksen	Y	Y	N	?	Y	X
INDIANA						
Bayh	-	N	N	N	N	Y
Hartke	N	N	?	?	N	Y
IOWA						
Hickenlooper	Y	Y	N	?	Y	N
Miller	Y	Y	N	N	Y	Y
KANSAS						
Carlson	Y	?	?	?	?	?
Pearson	Y	Y	N	N	Y	Y
KENTUCKY						
Cooper	Y	N	N	N	N	N
Morton	Y	Y	N	Y	Y	N
LOUISIANA						
Ellender	N	N	Y	N	-	‡
Long	N	N	Y	N	N	Y
MAINE						
Muskie	N	N	Y	N	N	Y
Smith	N	Y	N	N	N	Y
MARYLAND						
Brewster	N	Y	Y	N	N	Y
Tydings	X	?	‡	-	-	‡
MASSACHUSETTS						
Kennedy	N	N	Y	-	N	Y
Saltonstall	Y	Y	Y	N	Y	Y
MICHIGAN						
Hart	N	N	Y	N	N	Y
Griffin	Y	Y	N	N	N	Y
MINNESOTA						
McCarthy	N	N	N	N	N	Y
Mondale	N	N	N	N	N	Y
MISSISSIPPI						
Eastland	Y	N	Y	N	Y	N
Stennis	Y	N	Y	N	N	Y
MISSOURI						
Long	N	N	Y	N	N	Y
Symington	N	N	Y	N	N	Y
MONTANA						
Mansfield	X	N	Y	N	N	Y
Metcalf	N	N	Y	N	N	Y
NEBRASKA						
Curtis	Y	Y	N	N	Y	N
Hruska	Y	Y	N	N	Y	N
NEVADA						
Bible	N	N	Y	N	N	Y
Cannon	N	N	Y	N	N	Y
NEW HAMPSHIRE						
McIntyre	N	Y	Y	N	N	Y
Cotton	Y	Y	N	Y	Y	Y
NEW JERSEY						
Williams	N	N	Y	N	N	Y
Case	N	✓	✓	-	X	‡
NEW MEXICO						
Anderson	N	?	?	?	N	Y
Montoya	-	-	‡	-	-	‡
NEW YORK						
Kennedy	-	-	‡	-	-	‡
Javits	N	Y	N	N	N	Y
NORTH CAROLINA						
Ervin	Y	N	Y	N	N	Y
Jordan	Y	N	Y	Y	N	Y
NORTH DAKOTA						
Burdick	N	N	Y	N	N	Y
Young	Y	N	N	N	Y	Y
OHIO						
Lausche	Y	Y	Y	N	N	Y
Young	N	N	Y	N	N	Y
OKLAHOMA						
Harris	N	N	Y	N	N	Y
Monroney	N	N	Y	N	N	Y
OREGON						
Morse	N	N	Y	-	N	Y
Neuberger	N	N	Y	N	N	Y
PENNSYLVANIA						
Clark	N	N	Y	N	N	Y
Scott	Y	Y	N	N	Y	Y
RHODE ISLAND						
Pastore	N	N	Y	N	N	Y
Pell	N	?	?	-	-	‡
SOUTH CAROLINA						
Russell	?	-	?	?	?	?
Thurmond	Y	N	Y	N	N	Y
SOUTH DAKOTA						
McGovern	N	N	N	N	N	Y
Mundt	Y	N	N	N	Y	Y
TENNESSEE						
Bass	-	N	Y	N	N	Y
Gore	N	N	?	?	N	Y
TEXAS						
Yarborough	N	N	Y	N	N	Y
Tower	Y	X	X	-	✓	X
UTAH						
Moss	-	N	Y	N	N	Y
Bennett	Y	Y	N	Y	Y	N
VERMONT						
Aiken	N	Y	N	Y	N	Y
Prouty	Y	?	?	?	?	‡
VIRGINIA						
Byrd, Jr.	N	N	Y	N	N	Y
Robertson	N	N	Y	N	N	Y
WASHINGTON						
Jackson	N	N	Y	N	N	Y
Magnuson	N	N	Y	N	N	Y
WEST VIRGINIA						
Byrd	N	N	Y	N	N	Y
Randolph	N	N	Y	N	N	Y
WISCONSIN						
Nelson	N	N	N	N	N	Y
Proxmire	N	N	N	N	N	Y
WYOMING						
McGee	N	N	Y	N	N	Y
Simpson	✓	Y	N	Y	Y	N

Y Record Vote For (yea).
✓ Paired For.
‡ Announced For. CQ Poll For.
N Record Vote Against (nay).
X Paired Against.
- Announced Against. CQ Poll Against.
? Absent, General Pair, "Present." Not announce or answer Poll.

Democrats in this type; *Republicans in italics*

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Balance of Payments. Stern steps needed to improve the U.S. balance-of-payments position are likely to be delayed until after the 1966 Congressional elections. *(Page 1281)*

Floor Action. The House sent to conference the $17-billion defense procurement authorization and passed the Food for Freedom Act of 1966.... Congress cleared the bail reform bill, $7 billion in Treasury and Post Office appropriations and a farm disaster relief bill... The House passed bills extending the Renegotiation Act of 1951, increasing the amount of revenue bonds the TVA can have outstanding and providing more equitable tax treatment for foreign investors.... The Senate passed the "truth-in-packaging" bill. *(Page 1265)*

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Impact

BROADLY

1) Balance of power will shift IN NUMBERS AND VOTING GROUPS
Urban — NEGRO — REPUBLICAN — Union(?)

2) MODERATION OF RACIAL VIEWS in Law & Politics

3) Character of Rural Politics will change —
Representative may come from different County —
no special relation — may not know him
* MAY INCREASE ISSUE-POLITICS VS PERSONALITY

4) Realignment of Interest groups, factions, Personalities

→ And this may be the key to how much or how little actual change

Change will not be automatic — still will be politics as usual — who organizes, pressures — groups will pay more attention to Urban representatives — but they will be same groups.

5) Urban politics relate more meaningfully to State politics
What interests will coalesce

6) Encourage 2-Party System
Urban — Suburban
Remove facade of urban-rural split

Specific Impact. & Problem —

1) Unseat old-timers, e.g. Fla. Johns — ex Retrigo
Connor — Pres. Senate

2) Support for education

3) Rapid Transit + Federal

4) Shared Taxes

5) County mergers (?)
No longer pressure to keep a legislator
Still leaves Court house gang.

6) Increased effectiveness of State govts.

7) Relative "new comers" to state get larger voice — come to the cities (?)

8) Influence of "Monopoly Press" goes up (?)
Especially on At-large races
Multi-member Districts
Poor Voter turnout

9) Moves to make County & City govts. more representative.

10) Metropolitan Area Unity? Probably Not —
But. Fulton Co. office and Staff

11) More competition (political) for Seats

12) Labor - economic welfare legislation

Watch decimals higher the % close to equality

	% Needed elect Senate	% Needed elect House	Sen. Dists 1960 S	Sen. Dists 1960 L	House Dists 1960 S	House Dists 1960 L	
ALA 1962	25.1 (34)* 28	25.7 (40) 43	15.4	634.8	6.7	104.7	New plan for next election
ARK	43.8 (9)	33.3 (29)	35.9	80.9	4.9	31.6	New plan for next election Ct. challenge to house
FLA 1963	12.0 (48) 15.	12.0 (47) 27	9.5	935.0	2.8	311.7	New plan for next election
GA	22.6 (38)	22.2 (42)	13.0	556.3	1.8	185.4	Already election on Pop. But further revision 1968 1972
KY 1963	42.0 (10) 45.	34.1 (27) 47	45.1	131.9	11.3	67.7	Last election on Pop.
LA 1963	33.0 (25)	34.1 (28)	31.1	248.4	6.9	120.2	Case Pending 1/66
MISS 1963	34.6 (21) 37.	29.1 (35) 41	14.3	126.5	3.5	59.5	Case Pending 1/66
N.C.	36.9 (17)	27.1 (37)	45.0	272.1	4.5	82.0	Under Court order to change
S.C.	23.6 (36)	46.2 (6)	8.6	216.3	8.6	29.5	Under Court order to change
TENN 1963	26.9 (31) 45	28.7 (36) 40.	39.7	237.9	3.4	79.0	New plan for next elect
TEX	30.3 (27)	38.6 (16)	147.4	1,243.1	33.9	105.7	New plan for next elect
VA 1964(?) 1965 plan upset	37.7 (15) 41	36.8 (20) 41	51.6	285.2	20.1	142.6	Last election on Pop.

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Judicial Action: County Units and Apportionment
An Abstract of a Doctoral Dissertation
by
Emory F. Via

The dissertation is a study of the making of law by judicial action. Several court cases are examined in great detail. The central cases involved a challenge to the county unit system of primary vote counting in Georgia. Other key actions included the suits attacking Georgia's legislative apportionment and congressional districting schemes. In addition to the Georgia cases, Baker v. Carr (Tennessee apportionment case, 1962) and Gomillion v. Lightfoot(Tuskeegee racial districting case, 1960) are discussed at some length. Fairly extensive notes and a concluding chapter treat the 1964 cases where apportionment and districting problems were considered. These cases were Reynolds v. Sims(Alabama apportionment case) and its five companion cases and Wesberry v. Sanders(Georgia congressional districting case).

The Georgia cases are discussed at both the lower court and Supreme Court levels. The interaction between the judicial process and state legislative activity is considered in detail. Further, the materials occasioned by the cases, briefs and exhibits as well as opinions , are reviewed with some thoroughness. ~~It was considered important to round~~ The picture of these Georgia cases was rounded by exploring

first the political context out of which they arose and then ~~to discuss~~ some aspects of the aftermath of judicial action.

The rather involved narrative ~~is~~ was intended to accomplish four things.

1. One aim was to provide insight into the history of the county unit system and its political impact. ~~The origins of the system and the intentions of the originators had been a matter of debate in the earlier cases.~~ Essentially, the paper concludes that county unit voting developed as a matter of party practice after Reconstruction and then became law in 1917. The county unit system permeated Georgia's political life. It adversely affected the development of political leadership, political participation, racial relations, efforts to limit the number of counties, the effectiveness of urban majorities and minorities in state political life, actual election results, ~~in some cases there~~ and even national political events.

2. Major urban political forces had reached an impasse. Unit voting precluded an effective urban voice in the choice of statewide officers while the ~~The~~ make-up of the legislature ~~effectively~~ blocked basic changes in the law. The disparities in relative voting strength were as great as 100 to 1, and the proportionate voice in the state senate was ~~approximately~~ approximately 40 times greater for the smallest district than for ~~compared to~~ the largest. The attempts to solve this difficulty by invoking judicial action were unsuccessful until after Baker v. Carr.

3. During 1962 the pace of political activity in Georgia was intense. Added to a ~~regular~~ regular legislative session and a gubernatorial campaign were two extraordinary legislative sessions, abandonment of unit voting and the encouragement thereby of urban interests and candidates, the reapportionment of the state senate resulting in extra elections and changed rules regarding the method of selection of senatorial nominees. Much of the activity came about because of the cases in the federal district court. The unit case was heard and decided. The apportionment case was heard and ruled on in a series of opinions which extended from May 25 to October 19. In the meantime both the Fulton County Superior Court and the State Supreme Court had been involved in ~~an~~ the important side issue ~~as to~~ of whether or not district vote counting should be mandatory in multi-district counties.

4. The legislature during the period of activity described above was ~~in~~ ~~embroiled in considerable~~ in a state of turmoil. Though its work frequently proved inadequate there was no doubting the degree of political soul searching, bargaining, and eventual compromise that took place. Concurrently, other effects arose from the surge of political activity. Individual political careers were made and broken. The normal alignment of interest groups was deeply disturbed. Urban minorities were wooed as never before. Congressional and state legislative leaders sought ways to countermand the courts. Almost everyone actively engaged in the political struggle constantly re-evaluated his own political situation. Further, judgments

had to be made on the general situation as to what actions would be acceptable to the federal judiciary. The courts themselves searched for suitable rationales to support emerging doctrines based on unpronounced standards. In short, what Justice Frankfurter had described as a political thicket was indeed a matter of reality. And the actions of the judiciary had propelled the judges into it.

Beyond the story of political events while the cases were in process, there was the story of evolving law found in the cases themselves. This aspect of the study begins with the white primary cases. The elemental fact here is that in Smith v. Allwright(Texas primary case, 1944) and Chapman v. King(the Georgia primary case, 1946) the courts found primary election activity meet for federal judicial consideration. This being the case, why should not the unit system be challenged . Complaints were filed in 1946, 1950, 1951, and 1958. The allegations of racial discrimination in the operation of the unit system were not sufficiently convincing to win judicial intervention. And in meeting the true thrust of the cases, lower courts relied heavily on Colegrove v. Green(Illinois congressional districting case, 1946) to shore up their position that the kinds of issues actually presented were not the sort on which judicial bodies should take action. Indeed, the lower court in the 1958 case, Hartsfield v. Bell , refused even to convene a three-judge federal district court because of the lack of a substantial federal question. This position was upheld by a majority of the

Supreme Court justices; however, four justices voted in favor of requiring the empaneling of the three-judge court. ~~The argument is advanced in the paper that this vote was essentially on the merits of the case.~~ Although plaintiff's action was defeated, the number of justices supporting his cause was the greatest in any of the unit cases to that date. This relatively minor action was an important forerunner, in the matter of judicial vote alignment, to Baker v. Carr.

The scholarly and judicial debate over the significance of Colegrove had been lively. ~~and important.~~ The Court's opinion in that case became the overriding rationale invoked by lower courts to defeat unit system complaints. Following Baker v. Carr the district court in Georgia found the unit vote issue justiciable; for unit voting complaints, then, Baker had overrriden Colegrove. But Colegrove did not finally die as a lively precedent until Justice Black, speaking for the Court in Wesberry v. Sanders in 1964, described the Court's rule in Colegrove as a "minority opinion" and as the "Frankfurter opinion." The 3-1-3 vote in Colegrove officially was put into proper perspective. Of course, such action would not have been possible much earlier. When the Court was restored to full strength, the votes were clearly in favor of the Frankfurter opinion although Justice Rutledge in a unit vote case tried valiantly to overcome the effect of his vote in Colegrove(he had recognized the issue as justiciable but joined the majority in refusing relief only because of practical equitable grounds). ~~when the Court was restored to full strength the votes were clearly in favor of the Frankfurter opinion.~~

The ~~passing of time,~~ pressure of cases, increasing political inequities, and changes on the Court preceded the decision in Baker. It is suggested in the ~~near~~ paper that Gomillion v. Lightfoot was important in developing the views of some justices on the reach of judicial action. Districting problems could be found justiciable even at the risk of overthrowing legislative judgments where the constitutional mandate was clear. What further was required in apportionment or unit cases was a finding that the equal protection clause, interpreted by the Court, could speak with the same authority as the explicit prescriptions of the Fifteenth Amendment. Some time between the arguments and ruling in Gomillion and the arguments and conferences in Baker, Justice Clark shifted his position on the justiciability of electoral strength issues. His position was modified further from Baker to the final unit system decision in Gray v. Sanders. The logic of his evolving position is partly responsible for the degree of transformation; it can be surmised that the changing personnel on the Court , and therefore the balance of views, was also a contributing factor.

In Baker it was firmly established by a 6 to 2 vote that apportionment issues were justiciable. But the crucial matter of what courts should do with such issues was not settled. The justices had varying ideas as to what might be an acceptable standard for judging an apportionment's compatibility with the equal protection clause. Other apportionment cases, in process, were remanded to lower courts for consideration in the light of Baker. But in 1963 the

Supreme Court ruled on the unit system. It went beyond the lower court's ~~ruling~~ outlawing ~~that~~ of the existing system ~~violated constitutional standards~~ to hold that any unit system necessarily diminished ~~the~~ /voting strength and so was unacceptable/. The rule became "one voter, one vote." The paper argues that this rule was influential in determining the standard for apportionments.

The importance of who sits in judgment was again underscored in the cases examined in the paper. Four new justices were added to the Court ~~in the time~~ between ~~the opinions in~~ the ~~1958~~ 1952 unit vote cases and ~~the~~ Hartsfield ~~case~~ in 1958. Two of these, Warren and Brennan, joined old guardians Black and Douglas to give four votes for plaintiff's cause. When Baker was decided, a fifth justice had been added, Stewart, and Whittaker was not a participant in the final decision. The 6 to 2 vote in Baker changed to an 8 to 1 vote in ~~the~~ Gray v. Sanders, with the addition of two more justices(White and Goldberg).

At times ~~The~~ courts had difficulty in distinguishing representation from voting. There was more than an apparent relation between the two. ~~And at times it was convenient to stress the similarity, but on occasion the differences were paramount.~~ The plaintiffs in unit cases urged the differentiation between voting and representation. They had noted the Court's position in Colegrove and contrasted it to the views of the justices when confronted with individual voting rights cases arising under the equal protection clause. However, the early judicial response

to plaintiffs' attempts was not encouraging. The fundamental problem, said the courts, was a state's right to diffuse political power. Either individual voting rights were not involved or under Colegrove interpretations the issues were not suitable for judicial determination. But as late as the Gray case in 1963, the justices went to some pains to separate voting from representation. Clark and Stewart concurred to point out to Harlan that the issues were indeed separable, but Harlan sensed the meaning in the Court's new doctrine for a wider range of issues. His fears were borne out in the marriage of voting and representation in Reynolds v. Sims. Warren found it difficult, there, not to relate the two intimately as he explained why an equal population standard should apply to the apportionment of both houses of a state legislature.

The Court was confronted with a limited number of basic alternatives for judging apportionments. The first choice was to make a determination between procedural and substantive standards. If the Court had been concerned with only procedural standards it might have looked at how an apportionment was determined or to the availability of alternative relief from an onerous apportionment, or both. But this course had little appeal for the justices. Three basic substantive standards were explored in the paper. First, the courts could have accepted some form of federal analogy; an apportionment would be judged fair because in end result or in appearance it resembled federal institutional

arrangements or did not exceed the disparities occasioned by them. Secondly, there could be a test of "minimum rationality." If a legislature could be found to have some sufficient reason for its classifications, then any resulting disparity would be allowed to stand. And finally there was the possibility of an arithmetic standard which required either that districts not vary from a norm by more than a stated percentage or that a stated proportion of the electorate should elect a majority of the legislature.

Each of the basic forms could be applied in a number of ways and of course the standards could be mixed. None of the standards are free of difficulties in administration. The lower court in the county unit case, for example, promulgated a mixed standard which relied heavily on a federal analogy but set arithmetic limits as to a tolerable disparity. The paper argues that adoption of a federal analogy is not required and is essentially an undesirable standard. Similarly, the minimal rationality test presented difficulties. It would appear to reduce the Court's role in favor of legislative action, but in truth the Court would become bogged down in the minutiae of determining what is rational in a given case. Of course, this is a difficulty which it will not avoid altogether. Arithmetic standards are also beset with problems. Certainly there are inherent difficulties in adopting the Court adopted an absolute equality standard in voting cases. This may be viewed as an arithmetic standard. The paper suggests

that most arithmetic standards have at ~~their~~ their base an acceptance of an equality standard; the question becomes how much deviation from equality will be allowed.

In the end, even for apportionment the Court found the equality standard compelling. And because ~~they~~ the justices relied on the equal protection clause, ~~they~~ they were caught in its logic: if equality applied as a standard, unpolluted by considerations of minimal rationality or federal analogy(or other rationale for special institutional arrangements such as "republican form"), then both houses of a legislature should be measured by the single standard. So it is that the Court adopted absolute equality in voting and as nearly as ~~practical~~ practicable equality in ~~congressional and district~~ legislative apportionments. The 1964 cases point out a number of elements that will not ~~be acceptable by the~~ stay Court ~~as cause~~ in ordering ~~for deviation from~~ equality. Theoretically the Court recognized ~~that some practical problems presented by the physical environment, politically considered, would lead sometimes to~~ the possibility of legally acceptable disparities. However, we are yet to find out what would be a tolerable disparity , and under what circumstances. Although it might appear as if the Court had accepted a small portion of"minimum rationality" it has only allowed for what it describes as the necessary play in the joints of government.

The emergence of the new court-made law can be seen in the details of the cases, the arguments within the Court, and the political realities which preceded

and surrounded these judicial acts. In the making of the law the Court defined a new role for itself. Equal protection had been expanded so that in a new area the Court need not defer to legislative judgment. On a state issue it could override the expressed will of the majority of the voters in a given state. A nation which had no firm rule for evaluating the weighting of votes or representation now has an absolute rule. The Court which a few years ago was perceived as having no authority to interfere in the matter of equal political rights unless some further constitutional or statutory allegation was proved, now stands as the guardian of a doctrine of political equality.

In assuming its new role the Court has exercised a power born of independence. This power is more than vaguely reminiscent of the pre-New Deal Court. The question is raised if these judicial actions will suit evolving American democracy. The writer maintains that the Court's activism in this instance will assist democratic practice, but the power exercised by the Court should be as carefully scrutinized as that used by any other arm of government. In the American scheme of things the anomally of the least democratic branch of government being the staunchest defender of the people's right to participate fully in government is both digestible and useful. Usefulness is likely to be the final standard by which the Court is judged, and so it will be for its decisions which project it into new roles.

EV — Exec Rel Res

E WALL STREET JOURNAL, MONDAY, JUNE 5, 1967

Alternatives to the Electoral College

By ARLEN J. LARGE

WASHINGTON—"The cure for the ills of democracy," Al Smith once said, "is more democracy."

That idea has been steadily ascending since the Philadelphia convention devised a Federal Republic of limited public participation. Chances are Mr. Smith's prescription will before long be administered in one of its biggest symbolic doses yet: Direct election of the President by the people, ending the state-oriented electoral vote system.

Once considered the most far-out of various plans for reforming the Electoral College, the direct-vote proposal is enjoying sudden respectability. Constitutional lawyers are supporting it in hearings before a Senate subcommittee, after abandoning lesser reform ideas. The U.S. Chamber of Commerce urges Congressional action "with all due speed."

A surprisingly broad Senate coalition has formed behind the direct-vote system, with only minor differences of opinion on mechanics. Backers include an assortment of big-state liberals, plus such relative conservatives as Sens. Dirksen (R., Ill.), Miller (R., Iowa) and Lausche (D., Ohio). Though direct voting might reduce small-state influence, the list also includes Sens. Bible (D., Nev.), Burdick (D., N.D.), Aiken (R., Vt.) and Smith (R., Maine).

'Some Way to Go'

"I think we probably have a majority of the Senate now, and we couldn't say that a year ago," observes Sen. Bayh (D., Ind.), chairman of the Constitutional Amendments subcommittee taking testimony on electoral reform. "But we still have some way to go to get two-thirds," the amount required for House and Senate approval of a proposed Constitutional amendment to be submitted to the states. A Senate vote is likely this year, but the House workload may prevent action until next year.

To win more support, Mr. Bayh will probably offer to limit his original resolution's provisions for Congressional control of voter qualifications, now left mainly to the states. He hopes this might convert such key Southerners as Sen. Ervin (D., N.C.), traditionally sensitive about state authority over who can vote. The current wording of Sen. Bayh's resolution would let Congress set uniform national age and residence requirements.

Congress has been trying to repair the Electoral College system since it first backfired in the Presidential election of 1800. Now the debate seems to be reaching a peak, for two reasons:

—An American Bar Association study that concluded Presidents should be elected by direct vote of the people. It termed the present system "archaic, undemocratic, complex, ambiguous, indirect and dangerous." Under the ABA plan, a candidate could be elected with at least 40% of the total popular vote. If no candidate received 40%, there would be a runoff election between the top two men — a contingency that ABA lawyers insist would be [illegible]

—The growing belief that George Wallace will run for President next year on a third-party ticket. It's probably impossible to [illegible] Constitution in time for [illegible] in the 1968 election, but the Wallace [illegible] is reminding alarmed politicians in [illegible]

Wilson by 500,000 votes nationally.

One advocate of keeping the winner-take-all system is Lyndon Johnson, who wants to enshrine it specifically in the Constitution. He has proposed an amendment that would make independent judgment of electors impossible by abolishing them. As now, a state's electoral votes would all go automatically to the popular vote winner in that state, but the electoral votes would be disembodied. There would be no individual electors, and thus no such funny business as 1964's slate of unpledged electors in Alabama, which kept Mr. Johnson's name off the ballot, or the 1960 vote for the late Democratic Sen. Harry Byrd by a Republican elector in Oklahoma.

Mr. Johnson's reform plan has attracted scant interest. It has been endorsed by the National Association for the Advancement of Colored People, which understandably opposes splitting the electoral votes of big urban states. But Clarence Mitchell, the NAACP's Washington lobbyist, says the group is ready to embrace the far more sweeping reform of direct popular voting, provided there are continued efforts to end discrimination against Negro voters.

There are two main alternatives to the direct-vote plan. One, actually approved by the Senate in 1950, would apportion a state's electoral votes according to the popular votes received by each candidate. The House refused to submit this proportional plan to the states for ratification, partly because of sentiment for a rival system.

The rival plan would elect all but the two bonus electors from districts corresponding to the state's Congressional districts, instead of electing them at large as at present; the final electoral-vote count would correspond more closely to the popular-vote outcome. Sponsored by Sen. Mundt (R., S.D.), this district plan tends to attract small-state conservatives who complain of the power of bloc voters in big pivotal states. Some backers, such as Alaska's liberal Democratic Sen. Gruening, simply want to head off any loss of the bonus electors, who enhance small-state influence.

One of the key arguments of the direct popular vote camp is that rivalry between plans for lesser change prevents any single plan from getting two-thirds support in Congress. But critics of direct voting make three main points.

First, states might rush to lower their minimum voting ages, hoping to boost the size and influence of their electorates.

Second, the two-party system would be hurt by abolishing electoral voting, which now discourages splinter candidates because they rarely have enough support to land in the electoral vote column where it counts. The ABA lawyers contend their proposal that the winner have at least 40% of the popular vote would provide equal protection for the two-party system.

The third objection to direct voting is ideological, a resistance to Al Smith's "more democracy" motto. "There is no proof that a President elected by the Electoral College with a minority of the popular vote would deliver a less constructive Administration of our country's affairs than his opponent," testified H. L. Hunt, the Dallas oil millionaire. In devising a model constitution for underdeveloped countries, Mr. Hunt has advocated extra-weight votes for persons of wealth and education. For the U.S., he favors an Electoral College elected by the district system.

Other conservative critics of direct voting say it would change the fundamental nature of the Republic. The American Good Government Society argues Congress and the Presidency were intended to have a dual constituency: The people and the states. Direct popular control of the White House, says the society, would create "a political monstrosity," with Congress based on a Federal union of states but the President a "king" elected without the states' involvement.

Acceptable Alternatives

This argument seems lost on most people. Harvard law professor Paul Freund cites the Constitution's preamble as evidence that the Republic was established "by the people, and not by a league of states." American Cyanamid Co.'s Donald Scott, testifying for direct voting on behalf of the U.S. Chamber of Commerce, sees "no damage done to the Federal system by the direct popular vote." However, the chamber says the district plan would be an acceptable alternative.

One other argument for retention of an Electoral College is that it provides a last-ditch mechanism for deciding the winner of a close election, as in 1960, when suspicions of fraud left lingering doubt about the Kennedy-Nixon popular vote totals. But it didn't work that way in 1876, when uncertainty about the popular vote in three states left it unclear whether 20 electors in the college should be Republicans pledged to Rutherford Hayes or Democrats pledged to Samuel Tilden. Until the makeup of the college itself could be determined, there was no mechanism for picking the President.

At one point in the long dispute, Mr. Hayes, the eventual winner, wrote in his diary: "This whole subject of the Presidential election ought to be thoroughly considered and a radical change made. . . . Something ought to be done immediately."

Ninety-one years later the prospects are at last bright that a change will be made, and there's a good chance it will indeed be radical.

no candidate received 40%, there would be a runoff election between the top two men — a contingency that [illegible] lawyers insist would be rare.

A growing belief that George Wallace will run for President next year on a third-party ticket, it's probably impossible to amend the Constitution in time for direct voting in the 1968 election, but the Wallace candidacy is reminding alarmed politicians in both major parties of the present system's potential for chaos: A capture of just enough Southern states to deny anyone a majority of electoral votes and thus require the House to pick the President, or a "spoiler" effect in pivotal Northern states that could tip the balance between the two major candidates.

"It took an assassination to get us the 25th Amendment" for filling a Vice Presidential vacancy, says a Capitol Hill supporter of direct voting. "It may take a Wallace to give us the 26th."

Few Serious Defenders

The present Electoral College system has few serious defenders. The complaints are familiar. A candidate getting the most popular votes in a state, no matter by how small a margin, wins all of that state's electoral votes. By blind geographical chance, a candidate who trailed nationally in popular votes could theoretically still accumulate a winning majority of the 538 electoral votes. (There is one for each Congressman and Senator and three for the District of Columbia.)

In one way, the system gives excessive leverage to urban Negroes and union members, who by bloc voting can swing big chunks of electoral votes in large states with close contests. In an almost contradictory way, the system enhances a small state's voting power beyond its weight of population, because each state has two bonus electoral votes, corresponding to its Senators. Population alone would give Nevada just one electoral vote, for example, but because of the bonus it has three.

It's often said that the system doesn't work the way the Founding Fathers intended: Small groups of distinguished citizens meeting every four years in their state capitols, each gravely pondering his own choice and sending off the resulting list of names to Washington. Some historians believe the Electoral College was originally intended to be a kind of nominating body, producing an array of names without giving anyone a majority. Selection of a President from the top five by the House (each state having one vote) was to be the normal procedure—not the rare stopgap it has become.

It was the Founding Fathers themselves who corrupted their original plan: upon going to work in the new government, they almost immediately factionalized into rival political parties that discouraged independent judgment by each elector. In the fall of 1800 one loyal partisan worried that electors of his party wouldn't show "the requisite concert" in voting one-two for the team of Thomas Jefferson and Aaron Burr. The worrier, James Madison, had good cause. The electors concerted so badly that the House had to pick between the supposed teammates, and the Constitution had to be changed to require separate candidates for President and Vice President.

State legislatures gradually required their electoral votes to be cast in a bloc, lest the state's influence be diluted, and by 1836 the electors were being chosen by popular vote everywhere except South Carolina. The "winner-take-all" system developed early in the nation's history.

For all the handwringing, election of a President who was second in popular votes has been quite rare — and it hasn't happened at all in this century. The last time was in 1888, when President Grover Cleveland nationally drew 100,000 more votes than Benjamin Harrison but lost the electoral votes of New York and some other pivotal states by small margins. There was a close call in 1916: Had Charles Evans Hughes picked up only 3,900 more votes in California he would have been President while still trailing Woodrow

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Box 200
4401 Massachusetts Avenue, N.W.
Washington, D.C. 20016

June 6, 1969

Dear Colleagues:

The September meeting of the American Political Science Association could well be the most significant in its history. It appears that we are at the crossroads of deciding whether or not APSA will remain primarily a professional association with broad humanitarian and scholarly goals.

We believe that issues relating to the future of the Association should not be decided by the few hundred people who attend the business session of the annual meeting and thereby make decisions for a continually growing association, now with nearly 17,000 members. The largest recorded membership attendance at any APSA business meeting to date has been approximately 800. We are, therefore, proposing amendments to the Constitution to provide that all constitutional amendments and all contested elections of officers should be submitted to a mail referendum of our members, and that whenever 20% or more of the members present and voting contest any resolution or action, such contested matters be submitted to the membership for a mailed vote.

The issues involved in these amendments are so vital to the future direction of the Association that we believe decisions of this nature should not be resolved at an unrepresentative meeting, held in New York, as it will be this year, or Los Angeles, as it will be next year.

We are, therefore, addressing this letter to our faculty colleagues urging that they make certain to attend the business meetings which will take place at 4 p.m. on September 3 and at 8 p.m. also on September 3 and on September 4 following the presidential address. We are not writing merely to those who agree with us, but to all faculty members who are APSA members. Quite simply, if the APSA is to continue as a professional association of scholars, we believe that it is imperative that you attend these scheduled business meetings and that you stay until all the votes have been taken. It is no less urgent that you get other APSA members to attend.

Our goal is to support the Constitutional Amendments submitted by Donald G. Herzberg and a number of other political scientists. These amendments to the APSA Constitution will prevent <u>any</u> minority at any time from capturing control of the Association through an unrepresentative business meeting attended by a small fraction of our total membership.

If you would like more information, or if you would like to help in the work of this Committee, please write to the above address. If you would like to make a contribution to help pay for this mailing and other expenses of the Committee, checks may be made out to the "Ad Hoc Committee" and sent to the same address.

Sincerely,

Stephen K. Bailey
Lucius Barker
Samuel Cook
David Fellman
Donald G. Herzberg
Samuel C. Patterson
James A. Robinson

Co-Chairmen

Explanation Of

HEW FORM NO. 441, ASSURANCE OF COMPLIANCE WITH THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE REGULATION UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Section 80.4 of the Department of Health, Education, and Welfare's Regulation effectuating Title VI of the Civil Rights Act of 1964 requires that every application to the Department for Federal financial assistance shall contain or be accompanied by an Assurance that the program or facility to be assisted will be conducted or operated in compliance with Title VI of the Civil Rights Act and with all requirements imposed by or pursuant to the Department's Regulation.

Section 80.4 further provides that "the form of the foregoing Assurance and the extent to which like Assurances will be required of subgrantees, contractors, transferees, successors in interest and other participants," shall be specified by the responsible Department official. Under this authority, HEW Form No. 441 has been specified as the form of Assurance which shall apply to all applications for Federal financial assistance (except for continuing state programs which must meet the requirements of Section 80.4(b) and school districts availing themselves of Section 80.4(c) of the Regulation) submitted to the Department after January 3, 1965; also the circumstances have been specified under which an Applicant shall obtain comparable written Assurances of compliance from its subgrantees, contractors, and transferees. (See answers to Questions 11 and 12 below in this regard.)

HEW Form No. 441 constitutes a legally enforceable agreement to comply with Title VI of the Civil Rights Act of 1964, and with all requirements imposed by or pursuant to the Regulation of the Department of Health, Education, and Welfare issued thereunder. Applicants are urged to read the Department's Regulation before executing the Assurance.

The following explanation of the requirements of the Department's Regulation and the examples of the kinds of discriminatory practices prohibited by them are for the guidance of the Applicants.

1. *By executing the Assurance (HEW Form No. 441), what does an Applicant agree to do?*

A. The Applicant agrees to make no distinction on the ground of race, color, or national origin in providing to individuals any service, financial aid, or other benefit under any program receiving Federal financial assistance extended to the Applicant by the Department.

2. *What is meant by "distinction on the ground of race, color, or national origin"?*

A. "Distinction on the ground of race, color, or national origin" includes (1) any type of segregation, separate or different treatment, or other discrimination on that ground; (2) the imposition of any admission, enrollment quota, eligibility, or other requirement or condition which individuals must meet in order to be provided any service, financial aid, or other benefit under a program or to be afforded an opportunity to participate in a program, if the race, color, or national origin of individuals is considered in determining whether they meet any such requirement or condition; (3) the use of membership in a group as a basis for the selection of individuals for any purpose, if in selecting members of the group there is discrimination on the ground of race, color, or national origin; and (4) the assignment of personnel to provide services, or the assignment of times or places for the provision of services, on the basis of the race, color, or national origin of the individuals to be served. It does not, however, include distinctions on the ground of race, color, or national origin determined by the responsible Department official to be necessary to the conduct of research or experimental programs having as their primary objective the discovery of new knowledge concerning special characteristics of particular racial or other ethnic groups.

3. *What is meant by "service, financial aid, or other benefit"?*

A. "Service, financial aid, or other benefit" under a program receiving Federal financial assistance includes any education or training, any evaluation, guidance, counseling, or placement service, any health, welfare, rehabilitation, housing, or recreational service, any referral of individuals for any of the foregoing services, any scholarship, fellowship or traineeship stipend or allowance, and any loan or other financial assistance or benefit (whether in cash or in kind), which is made available to individuals (1) with the aid of Federal financial assistance, or (2) with the aid of the Applicant's or of other non-Federal funds required to be made available for the program as a condition to the receipt of Federal financial assistance, or (3) in or through a facility provided with the aid of Federal financial assistance or the non-Federal matching funds referred to in (2).

4. *What requirements are placed on the use of facilities?*

A. The Applicant agrees to make no distinction on the ground of race, color, or national origin in making available to individuals the use of any land, building, equipment, or other facility leased, acquired, constructed, improved, or equipped with the aid of Federal financial assistance extended to the Applicant by the Department, including—

(*a*) the use of any room, dormitory, ward, or other space in the facility;

(*b*) the use of any equipment in the facility;

(*c*) the use of any office, waiting room, restroom, eating, recreational, concession, or other accommodation or convenience provided in the facility;

(*d*) the use of any facility not provided with the aid of Federal financial assistance if the availability of such facility is required as a condition to the receipt of Federal financial assistance for the Federally-assisted facility.

5. *What requirements are placed on the opportunities to participate in a program receiving Federal assistance?*

A. The Applicant agrees to make no distinction on the ground of race, color, or national origin in affording opportunities to individuals to participate (other than as employees) in any program receiving Federal financial assistance extended by the Department to the Applicant, including opportunities to participate—

(*a*) as providers of any service, financial aid, or other benefit to individuals under the program (e.g., as physicians, surgeons, dentists, or other professional practitioners seeking the privilege of practicing in a Federally-aided hospital or other facility),

(*b*) as conferees, observers, consultants, or advisers, or as members of advisory or planning groups, or

(*c*) as volunteers (e.g., as voluntary workers, or as patients or other subjects of study or experimentation in research, survey, demonstration, or like programs).

6. *Does that mean that an Applicant who signs the Department's Assurance may nevertheless make distinctions among his employees on the basis of race, color, or national origin?*

A. Title VI of the Civil Rights Act does not concern itself with employment practices except where a primary objective of the Federal financial assistance is to provide employment. Thus, where a basic objective of the program is to provide employment, the Applicant's employment practices are subject to the Department's Regulation. However, even where this is not the case an Applicant may be precluded from engaging in any discriminatory employment practices under the provisions of Title VII of the Civil Rights Act, Executive Orders 10925 and 11114, and the Merit System Regulations.

7. *When an Applicant's employment practices are covered by the Department's Regulation, what requirements must be met?*

A. The Applicant agrees to make no distinction on the ground of race, color, or national origin in its employment practices (including recruitment or recruitment advertising, hiring, layoff or termination, upgrading, demotion, or transfer, rates of pay or other forms of compensation, and use of facilities) with respect to individuals seeking employment or employed under any program receiving Federal financial assistance extended to the Applicant by the Department, in those programs where a primary objective of the Federal financial assistance is to provide employment to such individuals. This includes programs under which the employment is provided—

(*a*) as a means of extending financial assistance to students or to needy persons,

(*b*) to students, fellows, interns, residents, or others in training for related employment (including research associates or assistants in training for research work), or

(*c*) to reduce unemployment or to provide remunerative activity to individuals who because of severe handicaps cannot be readily absorbed in the competitive labor market.

8. *What effect will the Regulation have on a college or university's admission practices or other practices related to the treatment of students?*

A. An institution of higher education which applies for any Federal financial assistance of any kind must agree that it will make no distinction on the ground of race, color, or national origin in the admission practices or any other practices of the institution relating to the treatment of students.

(*a*) "Student" includes any undergraduate, graduate, professional, or postgraduate student, fellow, intern, student, or other trainee receiving education or training from the institution.

(*b*) "Admission practices" include recruiting and promotional activities, application requirements, eligibility conditions, qualifications, preferences, or quotas used in selecting individuals for admission to the institution, or any program of the institution, as students.

(*c*) "Other practices relating to the treatment of students" include the affording to students of opportunities to participate in any educational, research, cultural, athletic, recreational, social, or other program or activity; the performance evaluation, discipline, counseling of students; making available to students any housing, eating, health, or recreational service; affording work opportunities, or scholarship, loan or other financial assistance to students; and making available for the use of students any building, room, space, materials, equipment, or other facility or property.

9. *Does the Assurance of nondiscrimination apply to the entire operation of an institution?*

A. Insofar as the Assurance given by the Applicant relates to the admission or other treatment of individuals as students, patients, or clients of an institution of higher education, a school, hospital, nursing home, center, or other institution owned or operated by the Applicant, or to the opportunity to participate in the provision of services, financial aid, or other benefits to such individuals, the Assurance applies to the entire institution. In the case of a public school system the Assurance would be applicable to all of the elementary or secondary schools operated by the Applicant.

10. *What about a university which operates several campuses?*

A. Section 80.4(d)(2) of the Regulation provides for a more limited Assurance only where an institution can demonstrate that the practices in part of its operation in no way affect its practice in the program for which it seeks Federal funds. This would be a rare case.

11. *If an Applicant intends to make use of other individuals to help carry out the Federally-assisted program, does the requirement not to discriminate apply to such a subgrantee or contractor?*

A. It does. The Applicant must require any individual, organization, or other entity which it utilizes, to which it subgrants, or with which it contracts or otherwise arranges to provide services, financial aid, or other benefits under, or to assist it in the conduct of, any program receiving Federal financial assistance extended to the Applicant by the Department, or with which it contracts or otherwise arranges for the use of any facility provided with the aid of Federal financial assistance for a purpose for which the Federal financial assistance was extended, to comply fully with Title VI of the Civil Rights Act of 1964 and the Regulation of the Department of Health, Education, and Welfare issued thereunder.

12. *Must this Assurance of nondiscrimination by the subgrantee, etc., be in writing?*

A. In the case (1) of any contractual or other arrangement with another such individual or entity which will continue for an indefinite period or for a period of more than three months, (2) of any subgrant, or (3) of any conveyance, lease, or other transfer of any real property or structures thereon provided with the aid of Federal financial assistance extended to the Applicant by the Department, the Applicant shall obtain from such other person, subgrantee, or transferee, an agreement, in writing, enforceable by the Applicant and by the United States, that such other individual or entity, subgrantee, or transferee will carry out its functions under such subgrant, or contractual or other arrangement, or will use the transferred property, as the case may be, in accordance with Title VI of the Act and the Regulation will otherwise comply herewith.

13. *What obligations does the Applicant have to inform beneficiaries, participants, and others of the provisions of the Regulation?*

A. The Applicant must make available to beneficiaries, participants, and other interested persons information regarding the provisions of the Regulation and protections against discrimination provided under Title VI of the Civil Rights Act. The Department will issue shortly more detailed instructions on carrying out this phase of the Regulation.

14. *What obligations does the Applicant have to keep records and to make them available to the Department?*

A. From time to time, Applicants may be required to submit reports to the Department, and the Regulation provides that the facilities of the Applicant and all records, books, accounts, and other sources of information pertinent to the Applicant's compliance with the Regulation be made available for inspection during normal business hours on request of an officer or employee of the Department specifically authorized to make such inspections. More detailed instructions in this regard will also be forthcoming from the Department in the near future.

15. *Must separate Assurance forms be filed with each application?*

A. As a general rule once a valid Assurance is given it will apply to any further application as long as there is no indication of a failure to comply.

ASSURANCE OF COMPLIANCE WITH THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE REGULATION UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

_____ (hereinafter called the "Applicant")
(Name of Applicant)

HEREBY AGREES THAT it will comply with title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements imposed by or pursuant to the Regulation of the Department of Health, Education, and Welfare (45 CFR Part 80) issued pursuant to that title, to the end that, in accordance with title VI of that Act and the Regulation, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant receives Federal financial assistance from the Department; and HEREBY GIVES ASSURANCE THAT it will immediately take any measures necessary to effectuate this agreement.

If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Applicant by the Department, this assurance shall obligate the Applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is so provided, this assurance shall obligate the Applicant for the period during which it retains ownership or possession of the property. In all other cases, this assurance shall obligate the Applicant for the period during which the Federal financial assistance is extended to it by the Department.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Applicant by the Department, including installment payments after such date on account of applications for Federal financial assistance which were approved before such date. The Applicant recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this assurance, and that the United States shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Applicant.

Dated _____ _____
(Applicant)

By_____
(President, Chairman of Board, or comparable authorized official)

_____

_____
(Applicant's mailing address)

HEW-441
(12-64)

EMERGENCY SCHOOL ASSISTANCE PROGRAM August 26, 1970

ALLOCATION BY STATE FOR COMMUNITY GROUPS*

STATE	10% for Non-Local Educational Agencies
Region I	
Rhode Island	8,829
Region II	
New Jersey	45,697
New York	20,824
Region III	
Maryland	90,004
Pennsylvania	52,884
Virginia	473,125
West Virginia	912
Region IV	566,112
Alabama	566,112
Florida	814,063
Georgia	759,545
Kentucky	31,117
Mississippi	568,469
North Carolina	769,072
South Carolina	543,967
Tennessee	361,629
Region V	
Illinois	5,759
Michigan	1,133
Ohio	39,296
Region VI	
Arkansas	218,609
Louisiana	701,782
Oklahoma	29,649
Texas	891,875
Region VII	
Missouri	15,058
Region VIII	
Colorado	71,930
Region IX	
California	53,660
Virgin Islands	5,000

* These figures are accurate as of August 26, 1970. They are subject to change at any time because of the changing number of eligible school districts.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

OFFICE OF THE SECRETARY

WASHINGTON, D.C. 20201

Glo –
Emerg. Sch. assistance

September 24, 1970

Mr. Paul M. Gaston
Southern Regional Council
5 Forsyth Street
Atlanta, Georgia 30303

Dear Mr. Gaston:

Under the Emergency School Assistance Act of 1970, funds have been set aside to assist community-oriented groups in activities which serve to support the implementation of school desegregation plans. A conference is being held in Atlanta, Georgia on October 8th to make information about this program available, to invite questions and to stimulate discussion of the types of activity that might be authorized. We have been informed of your interest and involvement in the area of school desegregation and cordially invite you to attend.

If you cannot personally attend, but wish to have another person represent your organization, please pass this invitation on to such an individual. Travel expenses and per diem (at a rate of $25.00 per day) for you or your representative will be paid by H.E.W. (Expenses will not be paid for participants living in the Atlanta area.) If you feel that your particular organization cannot be adequately represented by a single person, you are welcome to send more than one representative; however, H.E.W. will not be able to pay expenses for more than one person per organization. We ask that you notify us of any persons other than yourself who will be attending the conference.

Could you inform us as soon as possible of your decision regarding attending this conference? You can do this either by returning the enclosed form or by phoning the person listed at the end of this letter. We will send Government Transportation Requests covering round-trip air fare to those people who notify us of their desire to attend by the close of business, Thursday, October 1. Individuals who cannot meet this deadline will have to pay for their own tickets and be reimbursed at the time they receive per diem payments. Per diem payments will be made by check and will not reach conference participants until after they have returned home. It will therefore be necessary to come to the conference prepared to meet all room, meal and incidental expenses that may be incurred.

The conference will be held at the Atlanta Cabana Hotel, beginning at 8:00 a.m. on October 8th and adjourning at approximately 5:00 p.m. that same day. Registration for all out-of-town participants will be from 7:30 to 10:00 p.m. the evening of October 7th, at which time copies of

the grants manual and program guidelines will be made available. No out-of-town registrations will be accepted the morning of October 8th.

For many of you it will probably be most convenient to stay at the Cabana, which will offer a special room rate of $16.90 single or $23.20 double to all conference participants. If you wish to stay at the Cabana, please fill out the enclosed Hotel Registration Card and return it directly to the hotel. If at all possible the Cabana would like to receive these cards by October 1. Reservations at the Cabana or any other hotel are your own responsibility.

The Atlanta Cabana Hotel
Peachtree and 7th Street
Atlanta, Georgia
Phone: 404-875-5511

Two other Atlanta Hotels are close to the Cabana and will also offer reduced rates to conference participants:

The Sheraton Biltmore Hotel
West Peachtree and 5th Street
Atlanta, Georgia
Phone: 404-875-3461

The Howell House
Peachtree and 3rd Street
Altanta, Georgia
Phone: 404-873-4821

To receive these reduced rates you will have to identify the conference by name and you will have to be on a list of conference participants which we will furnish these hotels. It is therefore extremely important that you notify us of your intention to attend this conference and, if possible, of the hotel where you plan to stay.

Please refer all questions related to this conference to:

Mr. Mel Stephens
Office of Education
Room 4122
400 Maryland Avenue, SW
Washington, D.C. 20202
Phone: 202-963-4228 or 4229

We look forward to hearing from you and sincerely hope to see you in Atlanta on October 8th.

Sincerely yours,

Melvin L. Johnson

Melvin L. Johnson
Project Director

Enclosure

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION

file - ESAP

Date: October 20, 1970

Reply to Attn of: OC /ESAP

Subject: Follow-up Information from Atlanta Conference

To: Atlanta Conference Participants

At our meeting on the Emergency School Assistance Program for Community Groups in Atlanta, on October 8, there were several points which were still unclear at the day's end. I am now able to give you more exact information.

1. The deadline for submitting an application is November 30, 1970. I believe this date will provide everyone enough time to prepare a good proposal, and still leave time to put it to work during this school year.

2. The word from the Office of General Counsel is that an applicant does not have to be incorporated to receive a grant; however, the applicant must be a legal entity, which is a matter of state law. Therefore, if you apply for a grant, please make sure that your group is a legal entity according to your state laws.

3. A copy of the state allocations of funds for community groups is enclosed.

4. A copy of HEW Form #441 is enclosed. You should consider it part of the application. We will not be able to process an application which does not have a signed 441 included.

5. Let Me stress once more that the application form does not have to be fully completed before being mailed to Washington, D.C. If any question poses a problem, leave it blank. In this regard, item 23 ("In what areas do you need technical assistance?") is especially important. If you need help of any kind, whether in designing a program or in completing the application itself, indicate it in item 23.

I hope this answers the questions which were unanswered in Atlanta. Of course, if you have further questions of any kind, please get in touch with me or any of my staff members.

Melvin L. Johnson

Melvin L. Johnson
Program Director
Emergency School Assistance
Program/Community Groups

file

HEARING FILE THIS TOPIC FOR ME PMG

EMERGENCY SCHOOL ASSISTANCE PROGRAM

Instructions and Application Form for Submitting Project Proposals Under the Emergency School Assistance Program of 1970

U.S. Department of Health, Education, and Welfare

Office of Education

EMERGENCY SCHOOL ASSISTANCE PROGRAM

INTRODUCTION

The Emergency School Assistance Program is being administered by the Commissioner of Education to provide emergency assistance to desegregating school districts which are operating under a court ordered or voluntary desegregation plan, the terminal phase of which is to commence by the opening of the 1970-1971 academic year or has commenced during the 1968-1969 or 1969-1970 academic year as set forth in Title 45 Code of Federal Regulations, Part 181.

This manual is designed to provide information and guidance for the Department of Health, Education, and Welfare and for others associated in implementing the statutory provisions of the program. This is a basic reference and seeks to achieve consistency in the procedures involved. Implementation data is referenced in the Table of Contents and by annotations to applicable sections of the Regulations.

Title VI of the Civil Rights Act of 1964 states that "No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

Emergency School Assistance Program

Introduction

The Emergency School Assistance Program authorizes the Commissioner of Education to administer a program of financial assistance to meet the special needs of local education agencies or other eligible applicants which are implementing or have recently implemented plans for school desegregation.

This assistance will be provided to:

1. contribute to the additional costs of new or expanded activities designed to achieve successful desegregation;

2. eliminate discrimination;

3. overcome the educational disadvantage resulting from, or increased by, past discrimination; and

4. improve the quality of education during the desegregation process.

Eligible Applicant (See Regulations, Sec.181.3 Eligibility)

1. A Local Education Agency which has submitted to the Office for Civil Rights of the Department of Health, Education, and Welfare:

   a. a voluntary plan, or

   b. a final order of a Federal or State court for the desegregation of schools operated by the agency.

   Such plan or order must be accompanied by an Assurance of Compliance with Title VI of the Civil Rights Act of 1964 described in 45 CFR 80.4(c) and must be acceptable under such provision.

   The terminal phase of such voluntary plan (1.a. above) or court order shall begin by the opening of the 1970-71 academic year, or shall have begun during the 1968-69 or 1969-70 academic year.

2. Any public or private organization may be eligible for a contract for the purpose of assisting one or more local education agencies described in 1. above in implementing desegregation plan(s).

3. A public or nonprofit private agency, organization, or institution (other than a local education agency) may be eligible for a grant where the Commissioner finds that it would more effectively carry out the purposes of the program.

Project Reviews

All projects will be evaluated by a qualified organization approved by the Commissioner of Education which is independent of the applicant. In a selected sample of districts receiving grants under the Emergency School Assistance Appropriation, the Department of Health, Education, and Welfare will conduct an in-depth evaluation of program effectiveness in cooperation with local school officials. The Department will also conduct on-site reviews of project operations in order to assure that the intent of this appropriation is being followed in all projects receiving funds under the Emergency School Assistance Appropriations.

Instructions for Completing Application for Emergency School Assistance

Section I - Applicant Information

The application represents a request for funds and must be certified by an authorized official of the eligible sponsoring organization (applicant agency).

Enter the legal name of the applicant agency. The authorizing official is that person designated by the applicant agency to request Federal funds and is responsible for the correctness and completeness of the information contained in the application.

Section II - Application Information

"Federal funds requested" (Item 12.) should be completed after development of Activity Budget (Section IV) and negotiation conference with the Office of Education representative.
"Approving Officer" is the U.S. Commissioner of Education or his authorized representative.
Review by the State Education Agency.

Arrangements should be made in advance for a representative of the Office of the Chief State School Officer to be present during the final conference. He should have the authority to review and, if appropriate, make comments for the Chief State School Officer, and to signify clearance of the project proposal by the Chief State School Officer.

Clearance by the Office of the Governor

Arrangements should be made in advance for a representative of the Office of the Governor to be present during the final conference. He should have the authority to review and, if appropriate, make comments for the Governor, and to signify clearance of the project proposal by the Governor.

Section III - Project Information

Item 28. List, by name and address, all schools included in the district for which Emergency School Assistance (ESA) is being requested.

Item 29. Assurance of Compliance--

This item relates to the eligibility of the applicant for funds under the Emergency School Assistance program. A copy of the Desegregation Plan must be attached.

Item 30. Evaluation by Advisory Committee--

a. Show the number of Non-Minority Race and Minority Race members who comprise the Committee.

b. List, by name, the members of each racial group. Indicate briefly:

(1) how they were selected.

(2) organizations they represent, and

(3) those members who are parents of children who will be directly affected by the project(s) to be carried out under the program.

c. Attach a copy of the evaluation of the project proposal prepared by the Advisory Committee.

NOTE: If no Advisory Committee has been established, indicate on a separate attachment titled "Advisory Committee, " when this will be done, how the members will be selected, and the efforts made along this line to date.

Item 31. Worksheet Data--

NOTE: Because of the special problems of this kind of application, it is recommended that applicants use a step-by-step approach in developing the project description. The first step is completion of Item 31.A, the Worksheet Data for Emergency School Assistance Activities.

The Worksheet Data Form is designed to assist the district in analyzing its project requirements. It provides for the identification of activities for the project by application of three criteria: problems, needs, and evaluation.

A project proposal is for the purpose of meeting certain identified problems of the district in accomplishing its desegregation effort. If not so expressed in the statement of the problems, it is also necessary to describe the needs of the children of the district.

A project will consist of one or more activities selected because they will attack the problems or meet the needs.

For the evaluation question, state each activity's performance goals. Specify them in objective terms so that an independent evaluator can assess progress against the applicant's own goals.

The Worksheet Data (Activity Resources - Current and Projected), is an additional analytical tool. When the applicant has identified the Activities for the project, this Form (Item 31.B.) is needed to record three levels of operation: (1) the past (1969-70) school year; (2) the planned (1970-71) use of resources without Emergency School Assistance funds; and (3) the plans for 1970-71 with the increment of Emergency School Assistance Funds.

In the case of Activity A, Special Community Programs, only a Yes or No entry is required. In the other activities, the number of staff or students is required. Number of staff means full-time equivalent (FTE), i.e., the time spent or it is estimated will be spent on the designated activity. Accordingly, if 10 staff members spend 50% of their time on an activity, it will be recorded as 5. Number of students means the count of students receiving the services, i.e., the number reached regardless of the amount of student time. Accordingly, if one student spends 4 hours a week in an activity, and another spends 8 hours a week in the same activity, it will be recorded as 2.

In addition, the data should be entered separately for elementary and secondary schools. This is shown by "E" for elementary and "S" for secondary. For example,

Staff	Students
E -- 2 S -- 3	E -- 24 S -- 27

Where an entry is not to be used, mark or type an "X" in that space, i.e., Teacher Preparation Programs will show no entry for students.

Item 32. Project Description--

After the analysis in Item 31., the applicant can now proceed to the "comprehensive statement" required in Section 181.6 of the Regulations. This statement should describe the project activities to be pursued, relating them to identified problems incident to desegregation and to the needs of the children of the district. The planned use of resources, both manpower and money (see Section IV - activity Budget), should be fully justified.

The goals of the project and the expected results should be stated as directly as possible.

Where the nature of the activity makes it difficult to assess achievements of goals, some brief description of the progress to be expected will be sufficient.

For each proposed activity, estimate the total number of minority students and non-minority students who will participate.

In addition, for each proposed activity, estimate the number of schools in the district which will be engaged in it. If known at the time of application, identify by name and address the schools which will be so engaged.

Section IV - Emergency School Assistance Activity Budget

This matrix form provides for the estimate of costs by Project Activity.

General Instructions

1. Columns 1 through 7 represent the Activities to be funded under ESA.

2. Rows A through O represent the cost categories generally allowable under ESA.

3. Enter the whole dollar amounts for each Activity requested to be funded, broken down by allowable cost categories.

4. Allowable cost categories not applicable to certain Activities are designated by blacked out boxes, indicating no entry should be made.

5. Place an "X" in each box that is not used.

Specific Instructions

1. Column 8, rows A through O. Enter the total of all entries for each allowable cost category.

2. Row P. Columns 1 through 7. Enter the total of all entries for each Activity requested to be funded.

3. Column 8, row P. Enter the sum of all other entries in column 8. Ensure that this sum equals the sum of all other entries in row P. This amount is the Direct Costs requested for the project.

4. Column 8 row Q. Enter the Indirect Costs requested for the projects. See Grants Manual for limitations and method of computation.

5. Column 8, row R. Enter the sum of Direct Costs and Indirect Costs. This is the total Federal Funds requested for the project and is the amount to be entered in Section II item 12 of the application cover sheet.

P.M.G

Work list approved by Commissioner.

File ESAP

PROJECTS APPROVED BY THE COMMISSIONER FOR ESAP/CG --3/17/71.

ALABAMA

ACT	$60,000
Alabama Council on Human Relations	10,000
Alabama Literacy and Learning	70,000
Community Improvement Board	35,000
West Macon Improvement Association	15,730
Pulaski-Cavalry Rehabilitation Study and Action	45,000
Selma Inter-Religious Project	99,123
	$334,853

ARKANSAS

Arkansas Council on Human Relations	$75,000
Black United Youth	30,000
Foreest City Council on Human Relations	26,000
	$131,000

COLORADO

Denver Urban Coalition	$25,000
Project SER	42,450
	$67,450

FLORIDA

[illegible]	[illegible]
Community Action Migrant Program	65,000
Concerned Parnets for Equal Opportunity for Black Youth	30,000
Dade County Youth Council	24,960
Gainesville Women for Equal Rights	50,000
Lake County Economic Opportunity, Inc.	20,000
Project REAL	7,000
Theatre of Afro Arts	11,250
WJCT Community Television	113,000
Afro-American Cultural Development Center	35,000
Golden Triangle Education Association	52,600
	$488,810

GEORGIA

Academy Theatre	$77,228
Albany, Georgia Nursery School, Inc.	42,000
Atlanta Urban League	25,000
Athens Council on Human Relations	21,686
Baldwin County Council on Human Relations	14,796
Candler County Council on Human Relations	17,730
Carroll County Council on Human Relations	14,337
Chatham County Council on Human Relations	21,000
Cobb County Council on Human Relations	12,204
Community Development Committee	60,000
Decatur Cooperative Ministry	33,242

GEORGIA, cont'd

Glascock-Hancock Counties Human Relations Council	$69,000
Glynn County Council on Human Relations	10,800
Project QUEST	70,000
Macon Council on Human Relations	25,000
New Communities	16,620
Southern Regional Education Board	180,000
	$710,676

KENTUCKY

Community Action, Lexington-Fayette County, Inc.	$31,117

LOISIANA

Bogalusa Voters League	$11,068
Civic Brotherhood Club	7,700
Community Relations Council (New Orleans)	22,820
Dulac Community Center	9,059
Louisiana Council on Human Relations	45,996
Louisiana Education Association	70,174
Public Affairs Research	71,930
St. Lucy's Community Center	6,644
Sons of Desire	29,592
Southern Mutual Help Association	
(a) Lafourche Parish	25,500
(b) Vermillion Parish	45,500
	$372,983

MARYLAND

National Conference of Christians and Jews	$43,000

MISSISSIPPI

Ad Hoc Committee on Student Council Merger	$24,000
Berean Bible Church, Inc.	35,258
Central Mississippi	38,000
Community Coalition for Public Schools	70,859
Greater Jackson Area Committee	67,000
Greenville Black Youth Development	20,000
McComb Community Center	17,411
Oxford Development Association	12,000
Tri-County Community Center	52,000
United Ministerial Association of Lowndes County	25,000
Pearl River County Development Corporation	44,007
	$406,532

NORTH CAROLINA

Afro-American Society and Human Relations Council	$1,700
Asheville YWCA	36,060
Baptist Ministers & Associates Conference	15,916
Bi-Racial Community Recreational Center	10,000
Charlotte-Mecklinburg PTA Council	65,000
Choanoke Area Development Association	90,000
Citizens' Advisory Committee, Kinston Board of Education	30,000

NORTH CAROLINA, cont'd

Dramatics Project Bi-Racial Harmaony	$5,000
National PTA Congress	7,000
North Carolina AFL CIO	82,000
North Carolina Council of Churches	49,984
Regional Development Associates	65,000
Research in the Advancement of Personalities (RAP)	15,900
United Voters Movement of Bertie County	20,000
Wilmington Youth Council	7,680
	$501,140

NEW JERSEY

New Jersey Educational Consortium	$45,697

OKLAHOMA

Oklahomans for Indian Opportunity	$29,646

PENNSYLVANIA

Cumberland, Perry, and Dauphin Counties OEO	$25,120

SOUTH CAROLINA

Hamburg County Branch, NAACP	$50,000
Citizens' Center for Quality Education	97,000
Columbia Urban Service Center	7,000
Laurens County Community Action, Inc.	23,674
Penn Community Services	49,000
Penn Community Services	6,000
South Carolina Commission for Farm Workers	100,000
South Carolina ETV Commission	44,781
	$377,455

TENNESSEE

Black Knights of Memphis	$29,860
Concerned Citizens for Improved Schools	36,581
Fayette County Economic Development Commission	16,000
Memphis Community Education Project	60,000
	$142,441

TEXAS

Abraham Lincoln Jr.-Sr. High School PTA	$40,000
Community Action Program, Taylor County	10,000
Gulf Region Educational Television Affiliates	14,000
Houston Human Relations Council	21,000
KERA-TV, Public TV Foundation	30,000
LEARN, Inc.	40,000
Mexican American Education Committee	~~40,000~~ 65,000

TEXAS, cont'd

Nacogdoches County Voters League	$119,000
North Central YMCA	89920
TEAM	293,755
Texas Panhandle Community Action Corporation	29,595
West Texas Education Center	40,000
	$686,270

VIRGINIA

Virginia Council on Human Relations	$50,000

GRAND TOTAL: $4,444,190

N.U.L. $235,000 Fisk 35,000 - ??

Columbia, S.C.
Birm.
Memphis
Pasadena
Richmond

National PTA $57,000

S C
Fla
NC
Ga

S. R. E. B. 180,000

La
Va
Fla
6 colleges

Commissioner made commitment $1 790,000 to bl. colleges.

[Black colleges - north state - with fed ca 2 mil.]

College and University Projects Approved by the Commissioner for Emergency School Assistance Program/Community Groups 3/17/71

ALABAMA	
Daniel Payne	63,800
Selma University	18,650
Tuskegee Institute	28,405
	$110,855
FLORIDA	
Florida Memorial College	117,000
Florida Technological University	154,000
	$271,000
GEORGIA	
Atlanta University, Center for School & Community Services	61,000
Savannah State College	110,000
	$171,000
LOUISIANA	
Southern University	223,000
Louisiana State University	60,000
	$283,000
MARYLAND	
~~Essex Community College~~	~~47,004~~
MISSISSIPPI	
Mary Holmes College	35,000
Alcorn A & M	56,800 ? 139,000
	$91,800
NORTH CAROLINA	
Kittrell College	$98,817
OKLAHOMA	
~~Oklahomans for Indian Opportunity, Inc.~~	~~$29,649~~
PENNSYLVANIA	
Millersville State College	$27,764
TENNESSEE	
Tennessee State University	$60,000
TEXAS	
Prairie View A & M College	$140,000
VIRGINIA	
Hampton Institute	$160,000
TOTAL	$1,490,889

much of this program is a political pay-off, just as 90% grant was

INSTRUCTIONS FOR COMPLETING "APPLICATION FOR EMERGENCY SCHOOL ASSISTANCE PROGRAM-SPECIAL COMMUNITY PROJECTS"

NOTE: To be completed by non-local educational agency applicants under The Emergency School Assistance Program.

Item 1. Enter the legal name of the applicant organization.

Items 9-10. The authorized representative is that person designated by the applicant organization to request Federal funds. The authorized representative is responsible for the correctness and completeness of the information contained in the application.

Item 11. Do not complete this item until item 25 has been completed.

Item 12. This item should be completed only by applicants who are proposing multi-district projects.

Items 13-24. Answer each question in the space provided. If more space is needed, attach extra sheets.

Mail completed application to:

Department of Health, Education, and Welfare
Office of Education
Emergency School Assistance Program
Community Projects Division
400 Maryland Avenue SW.,
Washington, D. C. 20202

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

O.M.B. NO. 51-R0863
APPROVAL EXPIRES: 12/31/70

APPLICATION FOR EMERGENCY SCHOOL ASSISTANCE SPECIAL COMMUNITY PROJECTS

FOR USOE USE ONLY

DATE APPLICATION RECEIVED

DATE APPLICATION APPROVED

TOTAL FEDERAL FUNDS APPROVED
$

NAME AND TITLE OF **OE** APPROVING OFFICER *(Print or type)*

SIGNATURE OF **OE** APPROVING OFFICER

DATE

SECTION I - APPLICANT INFORMATION

1. NAME OF APPLICANT ORGANIZATION

2. ADDRESS *(Number and street)*

3. CITY

4. STATE

5. ZIP CODE

6. COUNTY

7. CONGRESSIONAL DIST.

8. PERIOD OF PROPOSED PROJECT
A. STARTING DATE
B. ENDING DATE

9. NAME AND TITLE OF AUTHORIZED REPRESENTATIVE *(Type or print)*

10. SIGNATURE OF AUTHORIZED REPRESENTATIVE

11. **TOTAL FEDERAL FUNDS REQUESTED**
$

SECTION II - COMMUNITY INFORMATION

12. LIST THE LOCAL EDUCATIONAL AGENCIES WHICH WILL BE AFFECTED BY THE PROJECT

13. HAS THE LOCAL EDUCATIONAL AGENCY *(agencies)* RECEIVED A GRANT UNDER THE EMERGENCY SCHOOL ASSISTANCE PROGRAM?
☐ YES ☐ NO ☐ UNKNOWN

14. GIVE NAME, ADDRESS, AND TELEPHONE NUMBER OF LOCAL EDUCATIONAL AGENCY *(To be completed only by applicants who are proposing single-district projects)*

15A. BRIEFLY DESCRIBE THE ORGANIZATION'S RELEVEANT EXPERIENCE AND/OR THE EXPERIENCES OF INDIVIDUALS ASSOCIATED WITH THE ORGANIZATION IN THE AREA OF SCHOOL DESEGREGATION

15B. WHAT IS THE RELATIONSHIP BETWEEN THIS ORGANIZATION AND THE LOCAL EDUCATIONAL AGENCY?

15C. HOW WILL PARENTS AND OTHER MEMBERS OF THE COMMUNITY BE INFORMED OF THE PROJECT ACTIVITIES?

15D. HOW WILL MEMBERS OF THE COMMUNITY BE INVOLVED IN THE PROJECT?

15E. HOW HAS THE COMMUNITY BEEN INVOLVED IN THE DEVELOPMENT OF THIS APPLICATION?

15F. WHAT, IF ANY, OTHER ORGANIZATIONS IN THE COMMUNITY ARE ENGAGED IN ACTIVITIES SIMILAR TO THOSE PROPOSED IN THIS APPLICATION?

16. GIVE YOUR BEST ESTIMATE OF THE TOTAL NUMBER OF PEOPLE WHO WILL BE DIRECTLY AFFECTED BY THE PROPOSED PROJECT *(If possible give the estimate by students, parents and other specific groups)*

17. CHECK THE APPROPRIATE BOXES TO INDICATE IN WHAT AREAS PROJECT ACTIVITIES ARE PROPOSED

A. ☐ COMMUNITY RELATIONS AND INFORMATION

B. ☐ COMPENSATORY/REMEDIAL

C. ☐ PARENT INVOLVEMENT

D. ☐ STUDENT AND YOUTH

E. ☐ INTER-RACIAL EDUCATION

F. ☐ TRAINING AND TECHNICAL ASSISTANCE

G. ☐ ACTIVITIES LINKED TO COMPREHENSIVE EDUCATIONAL PLANNING

H. ☐ OTHER ACTIVITIES *(Specify)*

18A. WHAT ARE THE MOST IMPORTANT PROBLEMS ANTICIPATED DURING THE DESEGREGATION PROCESS?

18B. HOW WILL THE PROPOSED PROJECT ACTIVITY *(activities)* SOLVE OR ATTACK THE PROBLEMS DESCRIBED ABOVE?

19. WHAT SPECIFIC RESULTS DO YOU EXPECT TO ACHIEVE THROUGH THE ACTIVITIES DESCRIBED ABOVE?

20. ADVISORY COMMITTEES

A. LIST THE NAMES OF THE ADVISORY COMMITTEE MEMBERS, GIVE THE RACIAL OR ETHNIC GROUP BREAK-DOWN OF THE COMMITTEE, AND GIVE THE METHOD BY WHICH THEY WERE CHOSEN **OR** GIVE DETAILED PLANS

B. EXPLAIN HOW THE ADVISORY COMMITTEE WILL BE ORGANIZED WITHIN 30 DAYS OF RECEIPT OF GRANT

C. WHAT FUNCTIONS WILL THE ADVISORY COMMITTEE PERFORM?

D. WHAT IS THE RELATIONSHIP BETWEEN THIS COMMITTEE AND THE ADVISORY COMMITTEE ESTABLISHED BY THE LOCAL EDUCATIONAL AGENCY?

21. HOW WILL THE PROJECT BE MONITORED AND EVALUATED?

22A. HOW WILL THE STAFF BE RECRUITED AND SELECTED?

22B. HOW MANY WILL BE FULL TIME? HOW MANY, PART TIME?

23. IN WHAT AREAS DO YOU NEED TECHNICAL ASSISTANCE?

24. GIVE A DETAILED EXPLANATION OF YOUR BUDGET REQUESTS

25. COMPLETE THE FOLLOWING BUDGET ITEMIZATION

CATEGORY	AMOUNT
a. Employee salaries, services and benefits	$
b. Travel and per diem	
c. Office supplies and materials	
d. Facilities rental	
e. Equipment rental	
f. Equipment purchase	
g. Contracted services	
h. Other costs *(Specify)*	
i. TOTAL FEDERAL FUNDS REQUESTED	$

NAME OF APPLICANT ORGANIZATION

ASSURANCES

The applicant hereby assures the Commissioner that:

A. Federal funds made available under the program for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be available to the applicant from non-Federal sources for purposes which meet the requirements of the program, and in no case to supplant such funds.

B. A reasonable effort is being made to utilize other Federal funds available for meeting the needs of children.

C. The applicant *(i)* has not engaged in the gift, lease, or sale of property or services, directly or indirectly, to any nonpublic school or school system which, at the time of such transaction practiced discrimination on the basis of race, color, or national origin, where such gift, lease, or sale was for the purpose of, or had the effect of, encouraging, facilitating, supporting, or otherwise assisting the operation of such school or school system as an alternative to non-minority group students seeking to avoid desegregated public schools; and *(ii)* will not engage in the gift, lease, or sale of property or services to any such school or school system for any purpose.

D. The applicant will have published in a local newspaper of general circulation the terms and provisions of each project approved by the Commissioner within thirty days of scuh approval, or or will have published in a local newspaper of general circulation, within thirty days of such approval, pertinent information as to the manner in which, and the place at which, the terms and provisions of such approved project are made reasonably available to the public,

E. The applicant will complete and submit to the Office for Civil Rights of the Department of Health, Education, and Welfare, by December 15, 1970, or such other time as may be determined by that Office, an evaluation report on a form to be furnished by that Office.

F. The applicant will furnish to the Commissioner such additional information as he may deem necessary for the administartion of the program.

G. The control of funds provided under this authority and title to property derived therefrom, shall be in a public or private, nonprofit agency for the uses and purposes provided and that a public or private, nonprofit agency will administer such funds and apply them only for the purposes for which they are granted.

H. The applicant will make an annual report and such other reports to the U.S. Office of Education in such form and containing such information, as may be reasonably necessary to enable U.S. Office of Education to perform its duties under this authority, including information relating to the educational achievement of students participating in those programs, and will keep such access thereto as the U.S. Office of Education may find necessary to assure the correctness and verification of such reports.

I. The applicant agrees to an outside evaluation of the Emergency School Assistance Program by a qualified educational organization or association approved by the U.S. Commissioner of Education. The evaluation report will be submitted to the Board of Education and to the U.S. Commissioner of Education.

J. In operating its programs, the applicant will comply with Emergency School Assistance Program regulations, program Manual, and Grant or Contract terms and conditions.

K. Federal funds made available under the program will not be used by sectarian institutions of religious worship, or in connection with any part of a program of a school or Department of Divinity. The term "school or Department of Divinity" means an institution or a department or branch of an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.

PRINT OR TYPE NAME OF AUTHORIZED REPRESENTATIVE	SIGNATURE OF AUTHORIZED REPRESENTATIVE

NAME OF APPLICANT ORGANIZATION

CERTIFICATION OF ACCOUNTING SYSTEM

A. *(To be used when certification is by a public financial officer.)* As chief financial officer of _____ I am responsible for providing financial services to _____
Name of employing office
Name of applicant organization

I hereby certify that the accounting system established for this agency has internal controls adequate to safeguard its assets, check the accuracy and reliability of its accounting data, promote operating efficiency, and encourage compliance with prescribed management policies and the fiscal requirements in Emergency School Assistance Manual.

B. *(To be used when a CPA or other duly licensed independent accountant furnishes the certification.)* I am a certified *(or duly licensed)* public accountant and have been engaged to examine and report on the accounting system of _____.
Name of applicant organization

I have reviewed this agency's accounting system and I hereby certify that, in my opinion, it includes internal controls adequate to safeguard its assets, check the accuracy and reliability of its accounting data, promote operating efficiency, and encourage compliance with prescribed management policies and the fiscal requirements in the Emergency School Assistance Manual.

TYPE OR PRINT NAME	TITLE	DATE
SIGNATURE	ADDRESS *(Number, street, city, State, and ZIP code)*	

AGENDA

Emergency School Assistance Act
Community Programs Conference

Wednesday, October 7th - 7:30 p.m. to 10 p.m.	Where
Registration	Main Lobby
Sherry Davis and Nancy Blanton Ahoskie High School; Ahoskie, North Carolina	

Thursday, October 8th - 9 a.m. to 9:30 a.m.	
Introduction	Industry East & West Rooms
Melvin L. Johnson, Program Director, Emergency School Assistance/Community Programs	
W. Lee Pierson, Special Assistant to the Commissioner of Education	

9:30 a.m. to 10:30 a.m.

Questions and Answers on Grants Manual and Program Guidelines	Industry East & West Rooms

Panel: W. Lee Pierson
Melvin L. Johnson
Richard E. Verville, Director Center for Community Planning, HEW
Mr. Dewey Dodds, Office of Civil Rights, Region IV

10:30 a.m. to 10:45 a.m.

Coffee Break	Castillian East Room

10:45 a.m. to 11:45 a.m.

Continuation of Question and Answer Panel	Industry East & West Rooms

11:45 a.m. to 1:00 p.m.

Break for Lunch 527
528

Paul Gaston

1:15

1 pm to 2:30 pm

State Meetings (Discussion Leaders from Southern Regional Council)

North Carolina - Virginia.....769.....473.....Peachtree Place
Tennesse - Flordia.....362.....814.....The Castillian West
Georgia - South Carolina.....768.....544.....Industry East & West Rooms
Arkansas - Louisiana.....219.....704.....The Rotunda Mel Stephens
Mississippi - Alabama.....568.....566.....VIP Room
State Education Agency Representatives.....Suite 527 - 28

2:30 pm to 2:45 pm

Break

2:45 pm to 3:45 pm

Program Sessions - Participants are free to choose the session(s) they would most like to attend.

Subject/Given By	Place
Compensatory/Remedial Programs Mr. John Pride, Department of Compensatory Education, OE, Washington, D.C.	Industry East & West Rooms
Parent Involvement Mrs. Barbara Whitaker, Office of Child Development, HEW, Region IV	The Rotunda
Student/Youth Programs Mr. Calvin Nophlin, Office of Youth & Student Affairs, HEW, Washington, D.C. Mr. John Saunders, Center for Community Planning, HEW, Washington, D.C.	The Peachtree Place
Interracial Education Mrs. Mew Soong Li, Office of Economic Opportunity, Jackson, Mississippi Mrs. Dorothy Cotton, Education Director, Southern Christian Leadership Conference	The VIP Room
Teacher Training Dr. William T. Carter, Director, Division of Program Resources, Bureau of Educational Professional Development, OE, Washington, D.C.	The Castillian West Room

3:45 pm to 5 pm

Application Procedure and General Information

Industry East
and WestRooms

Panel: Melvin L. Johnson
W. Lee Pierson
Richard E. Verville
Donald Roberts, Program Assistant, Emergency School Assistance Community Programs
Mr. Dewey Dodds, Office of Civil Rights, Region IV

money

2-or more state program - formula to be worked out to deduct for state involved.

say nothing to give oversell. They are the ones who will be funded. other groups - Not here - will also supply applications

cooperation encouraged. in-fighting will cause people to be hurt. Purpose of meeting is to exchange ideas, get to know each other, and good ideas. Fed govt lacks credibility

open by letting OE rep. tell how much money for ea. state

TITLE 45--PUBLIC WELFARE

CHAPTER I--OFFICE OF EDUCATION
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 181--EMERGENCY SCHOOL ASSISTANCE PROGRAM

The regulations set forth in this Part are applicable to the Emergency School Assistance Program (hereinafter "the program"), which will be administered by the Commissioner of Education. Authority to carry out the program is based upon the following statutory provisions:

1. The Education Professions Development Act, Part D (20 U.S.C. 1119-1119a).

2. The Cooperative Research Act (20 U.S.C. 331-332b).

3. The Civil Rights Act of 1964, Title IV (42 U.S.C. 2000c-2000c-9).

4. The Elementary and Secondary Education Act of 1965, section 807 (20 U.S.C. 887).

5. The Elementary and Secondary Education Amendments

of 1967, section 402 (20 U.S.C. 1222).

6. The Economic Opportunity Act of 1964, Title II (42 U.S.C. 2781-2837) (under authority delegated to the Secretary of Health, Education, and Welfare).

Regulations previously published pursuant to the foregoing statutory authorities will not be applicable to the program.

Federal financial assistance provided pursuant to the Emergency School Assistance Program is subject to the regulation in 45 CFR Part 80, issued by the Secretary of Health, Education, and Welfare and approved by the President, to effectuate the provisions of section 601 (42 U.S.C. 2000d) of the Civil Rights Act of 1964 (P.L. 88-352).

Sec.
181.1 Definitions.
181.2 Purpose.
181.3 Eligibility.
181.4 Authorized Activities.
181.5 Allotment.
181.6 Applications.
181.7 Advisory Committees.
181.8 Student Advisory Committees.
181.9 Evaluation.
181.10 Priorities.
181.11 Review by State Educational Agency.
181.12 Non-Federal Contributions.
181.13 Submission and Disposition of Application.
181.14 General Terms and Conditions.

AUTHORITY: The provisions of this Part 181 are

issued under 20 U.S.C. 1119-1119a, 20 U.S.C. 331-332b, 42 U.S.C. 2000c-2000c-9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781-2837.

§ 181.1 Definitions.

As used in this part:

(a) The term "Commissioner" means the United States Commissioner of Education.

(b) The term "desegregation" means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin, but "desegregation" does not mean the assignment of students to public schools in order to overcome racial imbalance.

(42 U.S.C. 2000c)

(c) The term "local educational agency" means a public board of education or other public authority legally constituted within a State either for administrative control or direction of, or to perform a service function for, public elementary or secondary schools in

a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, or a combination of local educational agencies; and includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.
(20 U.S.C. 881)

(d) The term "minority group", with reference to any person or persons, means a person or persons of Negro, American Indian, Mexican-American, or Puerto Rican origin or ancestry.

(e) The term "nonprofit" as applied to an agency, organization, or institution means an agency, or organization, or institution owned or operated by one or more nonprofit corporations or associations no part of the net earnings of which inures or may lawfully inure, to the benefit of any private shareholder or individual.
(20 U.S.C. 881)

(f) The term "secondary school" means a school

which provides secondary education, as determined under State law, except that it does not include any education beyond grade 12.

(20 U.S.C. 881)

(g) The term "terminal phase", as it relates to a desegregation plan, means that phase of the plan at which the local educational agency begins operating a unitary school system within which no person is effectively excluded from any school because of race or color.

(Alexander v. Holmes Co. 396 U.S. 19 (1969))

§ 181.2 Purpose.

The purpose of the emergency assistance to be made available under the program described in this part is to meet special needs incident to the elimination of racial segregation and discrimination among students and faculty in elementary and secondary schools by contributing to the costs of new or expanded activities to be carried out by local educational agencies or other agencies, organizations, or institutions and designed

to achieve successful desegregation and the elimination of all forms of discrimination in the schools on the basis of students or faculty being members of a minority group.

(20 U.S.C. 1119-1119a, 20 U.S.C. 331-332b, 42 U.S.C. 2000c-2000c-9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781-2837)

§ 181.3 Eligibility.

(a) Assistance under the program may be made available to a local educational agency

(1) which has submitted to the Office for Civil Rights of the Department of Health, Education, and Welfare a final order of a State or Federal court or a voluntary plan for the desegregation of the schools operated by such agency, which order or plan (A) is accompanied by the Assurance of Compliance with Title VI of the Civil Rights Act of 1964 described in 45 CFR 80.4(c) and (B) has been determined to be acceptable under such

provision; and

(2) which (A) is to commence the terminal phase of such plan or order by the opening of the 1970-1971 academic year or (B) has commenced such terminal phase during the 1968-1969 or 1969-1970 academic year.

(b) In any case where the Commissioner finds that it would more effectively carry out the purposes of the program, he may make a grant to any public or nonprofit private agency, organization, or institution (other than a local educational agency), and contract with any public or private agency, institution, or organization to assist in the implementation of one or more desegregation plans described in subsection (a).

(c) The Commissioner initially will reserve for use pursuant to subsection (b) ten percent of the funds made available for the program. Any of such reserved funds not used pursuant to subsection (b) within such time as the Commissioner may determine will be made available for use by local educational agencies pursuant to subsection (a).

(20 U.S.C. 1119-1119a, 20 U.S.C. 331-332b,

42 U.S.C. 2000c-2000c-9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781-2837)

§ 181.4 Authorized Activities.

Projects assisted under the program shall be designed to contribute to achieving and maintaining desegregated school systems and should emphasize such activities as the following:

(a) carrying out special community programs designed to assist school systems to implement desegregation plans such as (1) promoting understanding among students, school staffs, parents and community groups; (2) conducting community information programs to provide information concerning desegregation; (3) establishing and supporting committees consisting of minority and nonminority group members; (4) conducting school-home visitation programs; and (5) conducting special parent programs designed to facilitate the implementation of the desegregation plans;

(b) carrying out special pupil personnel services designed to assist in maintaining quality education during

the desegregation process such as (1) providing special guidance and counseling personnel with expertise in working with a desegregated student body; (2) providing remedial and other services to meet special needs of children affected by desegregation; and (3) employing special consultants;

(c) carrying out special curriculum revision programs and special teacher preparation programs required to meet the needs of a desegregated student body such as (1) developing new and varied instructional techniques and materials designed to meet the special needs of children affected by desegregation; (2) designing and introducing new curricula that serve children from various ethnic backgrounds; (3) developing new material and techniques for improved evaluation and assessment of student progress; (4) carrying out special demonstration projects for the introduction of innovative instructional methodologies which will improve the quality of education in desegregated schools; (5) providing for individualized instruction, team teaching, nongraded programs, and the

employment of master teachers; (6) establishing inservice programs to assist teachers in dealing with children who have inadequate English language skills; (7) promoting greater understanding of the attitudes and interpersonal relationships of students and teachers involved in the desegregation process; (8) upgrading basic skills and instructional methodologies; (9) mobilizing university and consultant expertise in developmental programs and seminars on problems incident to desegregation; (10) providing temporary teachers whose employment will permit permanent teachers to participate in training related to desegregation; and (11) providing teacher aides whose employment will help improve instruction in schools affected by desegregation;

(d) carrying out special student-to-student programs designed to assist students in opening up channels of communication concerning problems incident to desegregation such as (1) promoting mutual acceptance; (2) promoting greater understanding of racial peer pressures of students; (3) assisting student groups to develop interracial understanding; (4) involving groups

consisting of minority and nonminority group students in curriculum revision; and (5) assisting groups consisting of minority and nonminority group students to plan and conduct desegregated extra-curricular activities;

(e) carrying out special comprehensive planning and logistic support designed to assist in implementing a desegregation plan such as (1) employing additional administrative and clerical personnel necessary for implementation of a plan; (2) assisting in the rescheduling and reassignment of students and teachers and the redrawing of transportation routes; (3) supervising necessary physical changes; and (4) minor repairing and minor remodeling of existing facilities and leasing or purchasing of mobile or demountable classroom units.

Assistance may also be provided for any other specially designed project which the Commissioner determines will meet the purposes of the program. (20 U.S.C. 1119-1119a, 20 U.S.C. 331-332b,

42 U.S.C. 2000c-2000c-9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781-2837)

§ 181.5 Allotment.

(a) The Commissioner will allot the funds made available under the program among the States by allotting to each State an amount which bears the same ratio to the total amount of funds available as the number of minority group children aged 5 to 17, inclusive (as determined by the Commissioner on the basis of the most recent satisfactory data available to him), in the State who are in local educational agencies eligible for assistance under § 181.3 bears to the number of such minority group children in all of the States.

(b) That part of any State's allotment which the Commissioner determines will not be needed may be reallotted, on such dates as the Commissioner may fix, in proportion to the original allotments, but with appropriate adjustments to assure that any amount so made available to any State in excess of its needs is

similarly reallotted among the other States.

(c) In no event will more than 12-1/2 percent of the funds allotted be used in any one State.

(42 U.S.C. 2812)

§ 181.6 Application.

(a) An application of a local educational agency for assistance under the program shall--

(1) set forth a comprehensive statement of the problems faced by that agency in achieving and maintaining a desegregated school system, including a comprehensive assessment of the needs of the children in such agency;

(2) describe one or more activities that are designed to comprehensively and effectively meet such problems with assistance requested under the program;

(3) provide for effective procedures for evaluation (as further described in § 181.9);

(4) contain assurances satisfactory to the Commissioner, accompanied by such supportive information as he may require;

(A) that Federal funds made available under

the program for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be available to the applicant from non-Federal sources for purposes which meet the requirements of the program, and in no case to supplant such funds;

(B) that Federal funds made available under the program will not be used to supplant funds which (i) were available to the applicant from non-Federal sources prior to the implementation by the applicant of an order or plan for the desegregation of its schools and (ii) have been withdrawn or reduced as a result of desegregation. For the purposes of this paragraph, a reduction as a result of desegregation shall not be deemed to have taken place where non-Federal funds available to a local educational agency pursuant to State statute are reduced by operation of such statute, solely on account of a decline in such agency's enrollment or its transportation

needs;

(C) that a reasonable effort is being made to utilize other Federal funds available for meeting the needs of children;

(D) that the applicant (i) has not engaged in the gift, lease, or sale of property or services, directly or indirectly, to any nonpublic school or school system which, at the time of such transaction, practiced discrimination on the basis of race, color, or national origin, where such gift, lease, or sale was for the purpose of, or had the effect of, encouraging, facilitating, supporting, or otherwise assisting the operation of such school or school system as an alternative available to non-minority group students seeking to avoid desegregated public schools; and (ii) will not engage in the gift, lease, or sale of property or services to any such school or school system for any purpose;

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(E) that staff members of the local educational

agency who work directly with children, and professional staff of such agency who are employed on the administrative level, will be hired, assigned, promoted, paid, demoted, dismissed, and otherwise treated without regard to being members of minority groups;

(F) that the local educational agency will take effective action to ensure the assignment of staff members who work directly with children at a school so that the ratio of minority to nonminority group teachers in each school, and the ratio of other staff in each, are substantially the same as each such ratio is to the teachers and other staff, respectively, in the entire school system;

(G) that no practices or procedures, including testing, will be employed by the local educational agency in the assignment of children to classes, or otherwise in carrying out curricular or extracurricular activities, within the schools of such agency in such a manner

as (i) to result in the isolation of minority and nonminority group children in such classes or with respect to such activities; or (ii) to discriminate against children on the basis of their being members of a minority group;

(H) that the applicant will have published in the local newspaper of general circulation the terms and provisions of each project approved by the Commissioner within thirty days of such approval, or will have published in a local newspaper of general circulation, within thirty days of such approval, pertinent information as to the manner in which, and the place at which, the terms and provisions of such approved project are made reasonably available to the public;

(I) that the applicant will complete and submit to the Office for Civil Rights of the Department of Health, Education, and Welfare, by October 15, 1970, or such other time as may be determined by that office, an

evaluation form to be furnished by that Office; and

(J) that the applicant will furnish to the Commissioner such additional information as he may deem necessary for the administration of the program.

(b) An application of a public or nonprofit private agency, organization, or institution (other than a local educational agency) for a grant under the program shall

(1) set forth a statement of the problems as seen from the point of view of such agency, organization, or institution, of achieving one or more desegregated school systems in the relevant community or communities;

(2) describe any previous involvement and concern of such agency, organization, or institution with education or school desegregation;

(3) describe the activities which such agency, organization, or institution proposes to undertake for the purpose of assisting in the implementation of one or more desegregation plans described in § 181.3(a), including a description of the manner in which such

activities would contribute to achieving and maintaining one or more desegregated school systems;

(4) contain an assurance satisfactory to the Commissioner that such agency, organization, or institution will furnish him such additional information as he may deem necessary for the administration of the program.

(20 U.S.C. 1119-1119a, 20 U.S.C. 331-332b, 42 U.S.C. 2000c-2000c-9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781-2837)

§ 181.7 Advisory Committees.

(a) In the case of a local educational agency with respect to which a bi-racial committee has been formed pursuant to an order of a Federal or State court, for the desegregation of the school system of such agency, such committee shall, prior to the submission of any application pursuant to § 181.6(a), be afforded a period of five days in which to review and comment to the local educational agency upon such application. Upon submission to the Commissioner, such application shall be accompanied

by any comments of such committee.

(b)(1) In the case of any other local educational agency, such agency shall, prior to submission of an application pursuant to § 181.6(a), select at least five but not more than fifteen organizations which in the aggregate are broadly representative of the minority and nonminority communities to be served. Those organizations that have been established pursuant to, or with respect to, other Federal programs, such as Community Action Agencies, City Demonstration Agencies, Title I Advisory Committees, Head Start Parents Advisory Committees, and 4-C Committees, should ordinarily be among those selected. Upon submission to the Commissioner, such application shall be accompanied by the names of the organizations so selected. Each such organization selected by the local educational agency may appoint one member to an advisory committee that shall be established by such agency within thirty days of approval by the Commissioner of its application.

(2) In addition to members appointed to the advisory

committee by organizations selected by the local educational agency pursuant to paragraph (1) of this subsection, the local educational agency shall appoint to the advisory committee such additional persons from the community as may be needed in order to establish an advisory committee composed of equal numbers of minority and nonminority persons, at least 50 percent of whom shall be parents whose children will be directly affected by the project to be carried out under the program.

(c) The local educational agency shall consult with any advisory committee formed pursuant to court order as described in subsection (a), or established pursuant to subsection (b), with respect to policy matters arising in the administration and operation by such agency of each project assisted under the program. The advisory committee shall be given a reasonable opportunity to observe and comment upon all project-related activities of the local educational agency.

(d) The names of the members of any committee

described in this section shall be made public by the local educational agency.

§ 181.8 Student Advisory Committees.

In addition to other assurances required under this part, the application of a local educational agency shall contain an assurance that, promptly following the opening of the 1970-71 academic year, a student advisory committee will be formed in each secondary school affected by the project which has a student body composed of minority and nonminority group children. The number of minority and nonminority students serving on each such committee shall be equal. The members of each such committee shall be selected by the student body. The local educational agency shall consult with the student advisory committee with respect to the carrying out of the project and the establishment of standards, regulations, and requirements regarding student activities and affairs.

(20 U.S.C. 1119-1119a, 20 U.S.C. 331-332b, 42 U.S.C. 2000c-2000c-9, 20 U.S.C. 887, 20 U.S.C. 1222, and

42 U.S.C. 2781-2837)

§ 181.9 Evaluation.

An applicant receiving assistance under the program shall include in the application a description of the methods, procedures and objective criteria to be used to evaluate the effects of each project to be assisted. Such evaluation shall be carried out by a qualified agency, institution, or organization, as determined by the Commissioner, (1) which is independent of the applicant and (2) which agrees to follow the employment practices which are required of a Federal contractor under Executive Order 11246 as amended. Such agency, institution, or organization shall conduct a continuing evaluation of such project, including its effectiveness in achieving clearly stated goals. An interim report of such evaluation shall be submitted to the Commissioner not later than May 1, 1971, and the final report of such evaluation shall be submitted to

the Commissioner as a part of the final project report. (20 U.S.C. 1119-1119a, 20 U.S.C. 331-332b, 42 U.S.C. 2000c-2000c-9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781-2837)

§ 181.10 Priorities.

In determining whether to provide assistance under the program, or in fixing the amount thereof, the Commissioner will consider such criteria as he deems pertinent, including--

(1) the applicant's relative need for assistance;

(2) the relative promise of the project or projects to be assisted in carrying out the purpose of the program;

(3) the extent to which the proposed project deals comprehensively and effectively with problems faced by the local educational agency in achieving and maintaining a desegregated school system;

(4) the amount available for assistance under the program in relation to the applications pending

before him.

(20 U.S.C. 1119-1119a, 20 U.S.C. 331-332b, 42 U.S.C. 2000c-2000c-9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781-2837)

§ 181.11 Review by State educational agency.

The Commissioner will not approve an application for assistance pursuant to § 181.6 without first affording the appropriate State educational agency a reasonable opportunity to review and make recommendations with respect to such application.

(20 U.S.C. 1119-1119a, 20 U.S.C. 331-332b, 42 U.S.C. 2000c-2000c-9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781-2837)

§ 181.12 Non-Federal contributions.

In view of the emergency nature of the program and the fact that most local educational agencies have already determined their budgets for the 1970-1971 academic year, the Commissioner will not require an applicant to contribute to the costs of the project if the application is accompanied by an assurance satisfactory to him

that the applicant does not have available adequate resources for that purpose.

(42 U.S.C. 2812)

§ 181.13 Submission and disposition of application.

The Commissioner will notify each applicant of the approval, disapproval, or other disposition of the application.

(20 U.S.C. 1119-1119a, 20 U.S.C. 331-332b, 42 U.S.C. 2000c-2000c-9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781-2837)

§ 181.14 General Terms and Conditions.

Grants provided pursuant to this Part will be subject to the General Terms and Conditions for the Emergency School Assistance Program, published as Appendix A to this Part and incorporated herein by reference. Activities carried out under the authority of Title II of the Economic Opportunity Act of 1964 will be carried out in conformance with the Memorandum of Understanding between the Office of Economic Opportunity and the Department of Health, Education, and Welfare, published as Appendix B to this Part and incorporated herein by reference.

(20 U.S.C. 1119-1119a, 20 U.S.C. 331-332b, 42 U.S.C. 2000c-2000c-9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781-2837)

Dated: AUG 7 1970

Acting U.S. Commissioner of Education

Approved: AUG 7 1970

Secretary of
Health, Education, and Welfare

U.S. GOVERNMENT PRINTING OFFICE : 1970 O - 401-908

GENERAL TERMS AND CONDITIONS--EMERGENCY SCHOOL ASSISTANCE PROGRAM

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1. Definitions

As used in the grant documents relating to this award, the following terms shall have the meaning set forth below:

a. "Commissioner" means the U.S. Commissioner of Education.

b. "Grantee" means the agency, institution, or organization named in the grant as the recipient of the grant award.

c. "Grants Officer" means the employee of the U.S. Office of Education who has been delegated authority to execute or amend the grant document on behalf of the Government.

d. "Project Officer" means the employee of the U.S. Office of Education who is responsible for monitoring the project of the Grantee to assure compliance with the terms and conditions of the grant.

e. "Project Director" is the person responsible for directing the project of the Grantee.

f. "Project" is the identified activity or program approved by the Commissioner for support.

g. "Project Period" means the length of time specified in the Notification of Grant Award for which a project is approved.

h. "Budget Period" means the period of time (within or coterminous with the project period specified in the Notification of Grant Award), during which project costs may be charged against the grant. A budget period is generally twelve (12) months but may be for a different period of time, if appropriate.

i. "Budget" means the amount of funds approved by the Office of Education for designated services, materials, and other items.

(20 U.S.C. 1119-1119a, 20 U.S.C. 331-332b, 42 U.S.C. 2000c-2000c-9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781-2837)

2. Scope of the Project

The project to be carried out hereunder shall be consistent with the proposal as approved for support by the Commissioner and referred to in the Notification of Grant Award and shall be performed in accordance with this approved project proposal. No substantive changes in the program of a project shall be made unless the Grantee submits (at least thirty days prior to the effective date of the proposed change) an appropriate amendment thereto, along with a justification for the change, and this amendment is approved in writing by the Grants Officer.

(20 U.S.C. 1119-1119a, 20 U.S.C. 331-332b, 42 U.S.C. 2000c-2000c-9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781-2837)

3. Limitations on Costs

a. The total costs to the Government for the performance of the grant shall not exceed the amount set forth in the Notification of Grant Award or any appropriate modification thereof. The Government shall not be obligated to reimburse the Grantee for costs incurred in excess of such amount unless and until the Grants Officer shall have notified the Grantee in writing that such amount has been increased and shall have specified in a revised Grant Award a revised amount which shall thereupon constitute the revised total cost of performance of the grant.

b. When and to the extent that the amount set forth in the grant has been increased, costs incurred by the Grantee prior to notification of such increase, in excess of the previous amount, shall be allowable to the same extent as if such costs had been incurred after notification of such increase in the amount.

c. The Grantee may transfer funds among the various cost categories in the negotiated budget to the extent necessary to assure the effectiveness of the project, except that, no transfers may be made which alter the approved project.

d. Funds for the production of motion picture films for viewing by the general public are not authorized until prior written approval is received from the Grants Officer.

(20 U.S.C. 1119-1119a, 20 U.S.C. 331-332b, 42 U.S.C. 2000c-2000c-9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781-2837)

4. Allowable Costs

a. Expenditures of the Grantee may be charged to this grant only if they: (1) are incurred subsequent to the effective date of the project indicated in the Notification of Grant Award, which shall be no earlier than the date upon which the award document is signed by the Grants Officer, and (2) conform to the approved project proposal.

b. Funds obtained under this grant shall not be used for the construction of new facilities or for major structural changes in or additions to existing facilities.

c. Subject to paragraphs (a) and (b), allowability of costs incurred under this grant shall be determined in accordance with the principles and procedures set forth in the documents identified below, as amended prior to the date of the award.

(1) Exhibit X-2-65-1 of the Department of Health, Education, and Welfare Grants Administration Manual, if the Grantee is an institution of higher education; or

(2) Chapter 5-60 of the Department of Health, Education, and Welfare Grants Administration Manual, if the Grantee is a State or local Government agency; or

(3) Exhibit X-2-68-1 of the Department of Health, Education, and Welfare Grants Administration Manual, if the Grantee is a non-profit institution, as defined therein.

(20 U.S.C. 1119-1119a, 20 U.S.C. 331-332b, 42 U.S.C. 2000c-2000c-9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781-2837)

d. In accordance with the policy of the Department of Health, Education, and Welfare, if the Grantee has an audited indirect cost rate that has been approved by the Division of Grants Administration Policy, this approved rate may be applied to both the Federal and non-Federal share of allowable direct costs of the project. When an indirect cost rate is applied to either the Federal or non-Federal share of project costs, no item normally included in the Grantee's indirect cost pool (such as supervision,

accounting, budgeting, or maintenance) shall be listed as a direct cost of the project. Procedures for establishing Indirect Cost Rates are covered in Department of Health, Education, and Welfare brochures: OASC-1, A Guide for Educational Institutions; OASC-5, A Guide for Non-Profit Institutions; and OASC-6, A Guide for State Government Agencies.

5. Accounts and Records

a. Accounts

The Grantee shall maintain accounts, records and other evidence pertaining to all costs incurred, and revenues or other applicable credits acquired under this grant. The system of accounting employed by the Grantee shall be in accordance with generally accepted accounting principles generally used by State or local agencies or institutions of higher education, or nonprofit organizations, as appropriate, and will be applied in a consistent manner so that the project expenditures can be clearly identified.

b. Cost Sharing Records

The Grantee's records shall demonstrate that any contribution made to the project by the Grantee is not less, in proportion to the charges against the grant, than the percentage specified in the grant or any subsequent revision thereof.

c. Examination of Records

All records directly relating to transactions under this grant are subject to inspection and audit by the Department of Health, Education, and Welfare and by the General Accounting Office at all reasonable times during the period of retention provided for in paragraph (d) below.

d. Disposition of Records

Except as provided in Paragraph (e), all pertinent records and books of accounts related to this grant in the possession of the Grantee shall be preserved by the Grantee for a period of three (3) years after the end of the budget period, if audit by or on behalf of the Department has occurred by that time; or if audit by or on behalf of the Department has not occurred by that time, the records must be retained until audit or until five (5) years following the end of the budget period, whichever is earlier.

e. Questioned Expenditures

Records relating to any litigation or claim arising out of the performance of this grant, or costs and expenses of this grant to which exception has been taken as a result

of inspection or audit shall be retained by the Grantee until such litigation, claim, or exception has been disposed of.

(20 U.S.C. 1119-1119a, 20 U.S.C. 331-332b, 42 U.S.C. 2000c-2000c-9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781-2837)

6. Fund Control

No funds shall be released to any public or private nonprofit agency, or combination thereof, unless the Grantee has submitted to the Grants Officer either---

a. a statement from an appropriate public financial officer certifying that the Grantee has established an accounting system with internal controls adequate to safeguard its assets, check the accuracy and reliability of accounting data, promote operating efficiency and encourage compliance with prescribed management policies, and that such officer shall be responsible for maintaining this accounting system; or

b. an opinion from a Certified Public Accountant or a duly licensed public accountant stating that the Grantee has established such an accounting system.

(42 U.S.C. 2835)

7. Preliminary Audit

Within three (3) months after the effective date of the grant, the Grantee will secure a preliminary audit survey of its accounting system and will submit a report thereon to the Grants Officer.

(42 U.S.C. 2835)

8. Payment Procedures

a. To obtain Federal funds, the Grantee must submit Forms 5141, Quarterly Estimated Requirements for Federal Cash, and OE-5140, with attachment 5232-A, Monthly/Quarterly Report of Disbursement of Federal Cash. Instructions for completing the forms are printed on the reverse side. The report of cash disbursements is to be submitted as a quarterly report and is due by the 10th day of the month following the end of a calendar quarter.

Inquiries regarding payment shall be addressed to the Director, Finance Division, U.S. Office of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202

b. Any funds remaining unobligated at the expiration of the Budget period shall within ninety (90) days of the date of expiration of the said period be refunded by check made payable to the United States Office of Education. All refunds must reference the Grant Number shown on the Notification of Grant Award.

(20 U.S.C. 1119-1119a, 20 U.S.C. 331-332b, 42 U.S.C. 2000c-2000c-9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781-2837)

9. Reports

The Grantee shall submit the following reports to the Office of Education.

a. Evaluation:

1. Completed form furnished by HEW (See Part 181.6(J) of Regulations) -- October 15

2. Interim report (See Part 181.9 of Regulations) -- May 1

3. Final report (See Part 181.9 of Regulations) -- Ninety (90) days after expiration of the budget period.

b. Statistical Information (Forms and Instructions to be submitted to grantee by DHEW)

1. The initial report will be due ninety (90) days after date of award, and should represent information applicable to the current school year.

2. The final report will be due ninety (90) days after the expiration of the budget period, and is to represent information applicable to the subsequent school year.

(20 U.S.C. 1119-1119a, 20 U.S.C. 331-332b, 42 U.S.C. 2000c-2000c-9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781-2837)

10. Printing and Duplicating

All printing and duplicating authorized under this grant are subject to the limitations and restrictions contained in the current issue of the U.S. Government Printing and Binding Regulations if done for the use of the Office of Education within the meaning of those Regulations.

(U.S. Government Printing and Binding Regulations)

11. Termination

a. Grants may be terminated in whole or in part by the Government in the event the Grantee fails to carry out its approved project proposal in accordance with applicable law and the terms of this grant. No grant shall be terminated unless the Grantee has been given reasonable notice and an opportunity to show cause why such action should not be taken, and has been afforded reasonable notice and opportunity for a full and fair hearing.

b. Termination shall be effected by delivery to the Grantee of a written notification thereof, signed by the Grants Officer.

Financial obligations incurred by the Grantee prior to the effective date of the termination will be allowable to the extent they would have been allowable had the grant not been terminated. The Grantee agrees to furnish the Grants Officer within sixty (60) days of the effective date of termination an itemized accounting of funds expended, obligated, and remaining under the grant. The Grantee also agrees to remit within thirty (30) days of the receipt of a written request therefor any amounts found due.

(42 U.S.C. 2944)

12. Extension of Project Period or Budget Period

When progress under the grant is delayed and circumstances make it necessary to request an extension of either the project period or the budget period, or both, without additional funds, it is the policy of the Office of Education to consider such extensions upon written request. (Where it appears that the activity to be accomplished within the project period or the budget period, or both, will be completed within three (3) months after the expiration date, it will not be necessary to request an extension. However, if it appears that the time required will exceed three (3) months, the Grants Officer should be informed and an extension should be requested.)

(20 U.S.C. 1119-1119a, 20 U.S.C. 331-332b, 42 U.S.C. 2000c-2000c-9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781-2837)

13. Applicability of State and Local Laws and Institutional Procedures Regarding Expenditure of Funds

Except to the extent otherwise provided for in this document or any document incorporated herein by reference, nothing herein or therein shall be construed so as to alter the applicability to the Grantee of any State or local law, rule, regulation, or any institutional procedure which would otherwise pertain to the expenditure of funds.

(20 U.S.C. 1119-1119a, 20 U.S.C. 331-332b, 42 U.S.C. 2000c-2000c-9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781-2837)

14. Copyright and Publication

a. The term "materials" as used herein means writings, sound recordings, films, pictorial reproductions, drawings or other graphic representations, computer programs, and works of any similar nature produced under this grant. The term does not include financial reports, cost analysis, and similar information incidental to grant administration.

b. It is the policy of the Office of Education that the results of activities supported by it should be utilized in the manner which would best serve the public interest. To that end, except as provided in paragraph (c), the Grantee shall not assert any rights at common law or in equity or establish any claim to statutory copyright in such materials; and all such materials shall be made freely available to the Government, the education community, and the general public.

c. Notwithstanding the provisions of paragraph (b) above, upon request of the Grantee or his authorized designee, arrangements for copyright of the materials for a limited period of time may be authorized by the Commissioner, through the Grants Officer, upon a showing satisfactory to the Office of Education that such protection will result in more effective development or dissemination of the materials and would be in the public interest.

d. With respect to any materials for which the securing of a copyright protection is authorized under paragraph (c), the Grantee hereby grants a royalty-free, nonexclusive and irrevocable license to the Government to publish, translate, reproduce, deliver, perform, use and dispose of all such materials.

e. To the extent the Grantee has the right and permission to do so, the Grantee hereby grants to the Government a royalty-free, non-exclusive and irrevocable license to use in any manner, copyrighted material not first produced in the performance of this grant but which is incorporated in the materials. The Grantee shall advise the Grants Officer of any such copyrighted material known to it not to be covered by such license.

(20 U.S.C. 1119-1119a, 20 U.S.C. 331-332b, 42 U.S.C. 2000c-2000c-9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781-2837)

15. Acknowledgment and Disclaimer in Publication

Any publication or presentation resulting from or primarily related to the project being performed hereunder shall contain the following-acknowledgment:

The project presented or reported herein was performed pursuant to a Grant from the U.S. Office of Education, Department of Health, Education, and Welfare. However, the opinions expressed herein do not necessarily reflect the position or policy of the U.S. Office of Education, and no official endorsement by the U. S. Office of Education should be inferred.

(20 U.S.C. 1119-1119a, 20 U.S.C. 331-332b, 42 U.S.C. 2000c-2000c-9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781-2837)

16. Patent Rights

a. Policy

In accordance with Department of Health, Education, and Welfare Regulations (45 CFR Subtitle A, Parts 6 and 8), all inventions made in the course of or under any Office of Education grant shall be promptly and fully reported to the Assistant Secretary (Health and Scientific Affairs), Department of Health, Education, and Welfare.

The grantee institution and the principal investigator shall neither have nor make any commitments or obligations which conflict with the requirements of this policy.

b. Determination

Determination as to ownership and disposition of invention rights, including whether a patent application shall be filed, and if so, the manner of obtaining, administering, and disposing of rights under any patent application or patent which may be issued shall be made either:

(1) by the Assistant Secretary (Health and Scientific Affairs) whose decision shall be considered as final, or

(2) where the institution has a separate formal institutional agreement with the Office of Education or the Department, by the grantee institution in accordance with such agreement.

Patent applications shall not be filed on inventions under (1) above without prior written consent of the Assistant Secretary (Health and Scientific Affairs) or his representative. Any patent application filed by the Grantee on an

Invention made in the course of or under an Office of Education grant shall include the following statement in the first paragraph of the specification:

> "The invention described herein was made in the course of, or under, a grant from the U.S. Office of Education, Department of Health, Education, and Welfare."

c. Reports and Other Requirements

A complete written disclosure of each invention in the form specified by the Assistant Secretary (Health and Scientific Affairs) shall be made by the Grantee promptly after conception or first actual reduction to practice, whichever occurs first under the grant. Upon request, the Grantee shall furnish such duly executed instruments (prepared by the Government) and such other papers as are deemed necessary to vest in the Government the rights reserved to it under this policy statement to enable the Government to apply for and prosecute any patent application, in any country, covering each invention where the Government has the right to file such application.

The Grantee shall furnish interim reports (Annual Invention Statements) prior to the continuation of any grant listing all inventions made during the budget period whether or not previously reported, or certifying that no inventions were made during the applicable period. Upon completion of the project period, the Grantee shall furnish a final invention report listing all inventions made during performance of work on the supported project or certifying that no inventions were made during that work.

d. Supplementary Patent Agreements

The Grantee shall obtain appropriate patent agreements to fulfill the requirements of this provision from all persons who perform any part of the work under the grant, except such clerical and manual labor personnel as will have no access to technical data, and except as otherwise authorized in writing by the Department.

The Grantee shall insert in each subcontract or agreement having experimental, developmental, or research work as one of its purposes, a clause making this provision applicable to the subcontractor and its employees.

e. **Definitions**

As used in this provision, the stated terms are defined as follows for the purposes hereof:

(1) "Invention" or "invention or discovery" includes any art, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the Patent Laws of the United States.

(2) "Made" when used in relation to any invention or discovery means the conception or first actual reduction to practice of such invention in the course of the grant.

f. **Inventions Resulting from Grants Made in Support of Research by Federal Employees**

Inventions resulting from grants made in support of research by Federal employees shall be reported simultaneously to the Assistant Secretary (Health and Scientific Affairs) pursuant to terms of the grant and to the employing agency under the terms of Executive Order 10096, as amended

(45 C.F.R. Parts 6 and 8)

17. **Travel**

Travel allowances shall be paid in accordance with applicable State and local laws and regulations and grantee policies. If none of these are applicable, travel shall be done in accordance with Federal Government regulations. No foreign travel is authorized under the grant unless prior approval is received from the Grant Officer. Travel between the United States and Guam, American Samoa, Puerto Rico, the U.S. Virgin Islands, the Canal Zone, and Canada is not considered foreign travel.

(20 U.S.C. 1119-1119a, 20 U.S.C. 331-332b, 42 U.S.C. 2000c-2000c-9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781-2837)

18. **Equipment**

Title to, and accountability for, equipment shall be determined in accordance with Chapter I-410, Management of Equipment and Supplies Acquired Under Project Grants, of the Department of Health, Education, and Welfare Grants Administration Manual.

(20 U.S.C.1119-1119a, 20 U.S.C. 331-332b, 42 U.S.C. 2000c-2000c-9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781-2837)

19. Service Contracts

The Grantee may enter into contracts or agreements (to the extent permitted by State and local law) for the provision of part of the services under this grant by other appropriate public or private agencies or institutions. Such contract or agreement shall incorporate these grant terms and all other rules and regulations applicable to the program, shall describe the services to be provided by the agency or institution, and shall contain provisions assuring that the Grantee will retain supervision and administrative control over the provision of services under the contract. Services to be provided by contract pursuant to this section shall be specified in the project proposal or in an amendment thereto, and the proposed contract shall be submitted to the Grants Officer and be approved by him in writing.

(20 U.S.C. 1119-1119a, 20 U.S.C. 331-332b, 42 U.S.C. 2000c-2000c-9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781-2837)

20. Health and Safety Standards

Whenever the Grantee, acting under the terms of the grant, shall rent, lease, purchase, or otherwise obtain classroom facilities (or any other facilities) which will be used by students and faculty, the Grantee shall comply with all health and safety regulations and laws applicable to similar facilites being used in that locality for such purpose.

(20 U.S.C. 1119-1119a, 20 U.S.C. 331-332b, 42 U.S.C. 2000c-2000c-9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781-2837)

21. Salary Limitations and Reporting Requirements

a. Compensation paid from Federal or matching non-Federal funds to persons employed in carrying out the project shall be subject to the following limitations:

(1) In no case shall the rate of compensation be less than the Federal minimum wage rate, which is $1.60 per hour except as otherwise provided in Section 6(a)(1) of the Fair Labor Standards Act of 1938.

(2) Except as provided in paragraph (1) the rate of compensation shall not exceed the average rate paid in the community where the project is carried out to persons providing substantially comparable services, or the average rate paid to such persons in the area of the employee's immediately preceding employment, whichever is higher.

(3) In no case shall the rate of compensation exceed $15,000 per year, unless the Grantee obtains a specific exception from this requirement from the Grants Officer. A Grantee applying for such an exception shall submit a written justification together with information as to salary levels for persons with comparable skills or holding comparable positions in the same community (or in the nearest community where such persons are employed), and, if relevant, similar information for the last community in which a specific job applicant or incumbent was employed.

(4) Unless approved by the Grants Officer, the rate of compensation of any person being paid at a rate in excess of $6,000 per year shall not exceed by more than twenty percent (20%) that person's rate of compensation in his immediate preceding employment.

b. The Grantee shall maintain records adequate to demonstrate compliance with the limitations in (a). The Grantee shall also report to the Office of Education on or before July 15 of each year the names of all employees who, as of June 30 of that year, were receiving a salary of $10,000 or more per year, together with the amount of compensation paid to each such person from grant funds or matching funds since July 1 of the preceding year.

(42 U.S.C. 2836(2) and 42 U.S.C. 2951)

22. Compensation

If a staff member is involved simultaneously in two or more projects supported by funds from the Federal Government, he may not be compensated for more than a total of one-hundred percent (100%) time from such Government funds for all projects during any given period of time.

(20 U.S C. 1119-1119a, 20 U.S.C. 331-332b, 42 U.S.C. 2000c-2000c-9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781-2837)

23. Prohibition of Political Activities

No project shall be carried on in a manner involving the use of program funds, the provision of services, or the employment or assignment of personnel in a manner supporting or resulting in the identification of the project with (1) any partisan or nonpartisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election from public or party office, (2) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election, or (3) any voter registration activity.

(42 U.S.C. 2943(L))

24. Restrictions on Certain Unlawful Activities

No individual employed or assigned by the Grantee shall, pursuant to or during the performance of services rendered in connection with any activity conducted or assisted under this Grant, plan, inititate, participate in, or otherwise aid or assist in the conduct of any unlawful demonstration, rioting, or civil disturbance.

(42 U.S.C. 2963)

25. Labor Standards

To the extent that grant funds will be used for alteration and repair (including painting and decorating) of facilities, the Grantee shall furnish the Grants Officer with the following:

a description of the alteration or repair work and the estimated cost of the work to be performed at the site;

the proposed advertising and bid opening dates for the work;

the city, county, and State at which the work will be performed; and

the name and address of the person to whom the necessary wage determination and labor standards provisions are to be sent for inclusion in contracts; not later than six (6) weeks prior to the advertisement for bids for the alteration or repair work to be performed. The Grantee shall also include or have included in all such alterations or repairs the wage determination and labor standards provisions that are provided and required by the Secretary of Labor under 29 CFR Parts 3 and 5.

(42 U.S.C. 2947)

26. Equal Employment Opportunity

With respect ot repair and minor remodeling, the Grantee shall comply with and provide for Contractor and Subcontractor compliance with the requirements of Executive Order 11246 as implemented by 41 CFR Part 60. The terms required by Executive Order 11246 will be included in any contract for construction work, or modification thereof, as defined in said Executive Order.

(Executive Order 11246)

U.S. GOVERNMENT PRINTING OFFICE : 1970 O - 401-909

HANDBOOK FOR PUBLIC AND PRIVATE
NON-PROFIT ORGANIZATIONS,
EMERGENCY SCHOOL ASSISTANCE PROGRAM

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INTRODUCTION

The Emergency School Assistance Program is designed to provide financial assistance for Local Educational Agencies (the local school system, hereafter called LEA's) and to public and private non-profit organizations other than LEA's to achieve and maintain a desegregated school system. Eligibility criteria limit projects to areas where the LEA is beginning, or has begun within the last two years, the terminal phase of an approved desegregation plan. Therefore, projects must support the implementation of the desegregation plan. The funds are to be used to meet the special needs of students, teachers, school administrators, and the community-at-large during the process of school desegregation.

The total amount available to the 1229 LEA's eligible as of September 1, 1970, under the Emergency School Assistance Program is 75 million dollars. Ninety per cent of this amount, or 67.5 million dollars, is for grants to LEA's. The remaining ten per cent, or 7.5 million dollars, is for grants to public and private non-profit organizations other than the LEA. Organizations such as community groups, colleges, and universities, and other local, regional, or national organizations would be eligible. This handbook is for the use of public and private non-profit organizations (hereafter called "non-LEA's") applying for the 7.5 million dollars set aside under the Emergency School Assistance Program.

Funds are provided for non-LEA's both in recognition of the important role these organizations play in the success or failure of the desegregation effort, and because to be fully effective, the desegregation process requires community support and participation. Further, it is recognized that in some communities, organizations other than the LEA may be in a better position to carry out some types of activities essential to a successful desegregation effort.

ELIGIBILITY

In order to be eligible for funds, the applicant must

(1) Be a public or private non-profit organization, and

(2) The project must serve only areas where the LEA has either:

(a) Submitted an acceptable plan to the Department of Health, Education and Welfare, and which began the terminal phase in school year 1968-69, 1969-70, or 1970-71, or

(b) Has received a final court order to desegregate from a State or Federal court, and which began the terminal phase in school year 1968-69, 1969-70, or 1970-71.

A list of these eligible LEA's is included in this information package. Additional lists are available from the Office of Equal Educational Opportunity, Office of Education, at your Regional HEW Office, or from Washington, D.C.

The fact that an LEA has not subscribed to the assurances required by ESAP regulations (181.6(a)), does not, in and of itself, disqualify another public or private non-profit agency from receiving funds under the program to aid the desegregation process in the school district of that LEA. The public or private non-profit agency may not, however, serve as a conduit for funds to the disqualified LEA. In other words, the project to be conducted must be genuinely that of the public or private non-profit agency, and not that of the LEA. In order to determine whether the public or private non-profit agency is serving as a conduit for the disqualified LEA, it will be necessary to examine the proposed project in the context of services that would normally be provided by the LEA.

PROGRAM PRIORITIES

Since there are many more organizations than can be funded under the 7.5 million dollars, some funding priorities have been developed and are described below:

(1) Priority will be given to those projects which are either inter-racial or inter-cultural and have a clear and direct relationship to successful desegregation. As is clearly described in the regulations, the thrust of this program, and of the program for LEA's, is to foster quality desegregated education.

(2) Priority consideration will be given to proposals which demonstrate the unique capabilities of community groups to assist in the desegregation effort, and which can provide models for other community groups which seek to make a contribution to desegregation efforts.

(3) Priority consideration will be given proposals from organizations which have demonstrated their ability to help achieve or maintain a desegregated school system, or have experience in improving the quality of education during the desegregation process. New organizations will be funded where there are individuals who have demonstrated experience and competence, or where the innovative character of the proposal requires the formation of a new organization.

Priorities: Pinson

(1) clear & successful relation to desegr
(2) work closely w. LEA - not duplicate
(3) innovative factor high priority

AUTHORIZED ACTIVITIES

Two types of projects will be funded: (1) Type A - a group of 20 to 30 model projects, and (2) Type B - a larger number of smaller projects typically relating to a single LEA's desegregation plan, or for projects operating on a relatively inexpensive scale.

Type A Projects 2/3 funds.

Model projects should either (1) demonstrate the value of a particular service or technique in achieving school desegregation, or (2) apply techniques developed in previous desegregation efforts, thereby testing their value in more than one situation, or (3) coordinate existing efforts and provide technical assistance to communities experiencing desegregation. These Type A projects would ordinarily serve more than one LEA. If they relate only to one LEA's desegregation plan, they should be of high innovative potential and especially good design. Regional or multi-district groups would have the advantage of being able to demonstrate the value of a particular technique or service in more than one LEA.

Type A projects should be sufficiently focussed upon clear and limited objectives to enable in-depth evaluation as models, rather than seeking to accomplish a broad range of generally defined goals. Potential applicants should recognize that Federal officials will maintain close relationships with the projects, so that lessons can be drawn from the experience. Technical assistance from a specially selected group of consultants and institutions will also be available.

TYPE B 1/3 50-100 fm $5,000-50,000

Type B projects will ordinarily operate within a single LEA, or would involve community relations activities of a relatively inexpensive nature. In designing the project, organizations should set goals and objectives that can be realized. Mechanisms for measuring progress must be established so that those directing the project, and those served by the project have a sense of what has been accomplished. Broad generalizations of direction and purpose lead to confusion and misunderstanding. Organizations should design the project so that it can be evaluated objectively both by the target community and by Federal officials.

Project Activities - Type A and Type B

Project activities must support the implementation of the desegregation process of the LEA, and must contribute to a lasting and educationally sound desegregated school system. Generally, projects operated by non-LEA's will be in program areas not covered by the LEA's operations or scope of direct responsibility, rather than duplicating the work of the schools.

The kinds of project activities which might be funded are described below.

1) Community Relations and Information Projects: Under this broad heading, a variety of activities operating in support of desegregation plans could be undertaken. Such activities could include, as specified in the regulations, community information programs, school-home visitation programs, and special parent programs. Publications, speakers' bureaus, films, media presentations, bilingual presentations and materials, and other information activities could be designed in conjunction with local educational agencies as a means of disseminating information which would increase mutual understanding on the part of those participating in or affected by the implementation of a desegregation plan.

2) Compensatory/Remedial: Remedial programs outside the school setting with a strong community base, or with the assistance of colleges in the region, will provide essential support for student achievement within the newly desegregated classroom. These programs should be operated on an inter-racial basis. Most typically, perhaps, these projects would include after-school tutorial programs, some of which may operate on a bi-lingual basis for students learning English as a second language. Secondary students and students of colleges and universities in or near the desegregating districts could participate in such programs.

3) Parent Involvement: The value of involving parents of students in school-related activities to reinforce student achievement has been demonstrated in pre-school settings. The major thrust of projects under

this activity should be to get minority and non-minority parents cooperating to improve the quality of their children's education. Expansion of existing parents' organizations or establishment of new groups are allowable under this activity.

4) Student and Youth Projects: A special effort will be made, in line with the regulations requirement for student advisory committees, to solicit and provide technical assistance for programs operated by students and youth. Projects could be either curricular or extra-curricular in nature. Such projects could be aimed at conflict resolution, or could be designed to develop and implement acceptable student codes. In addition, special efforts should be made throughout the program to involve students, as the most directly affected participants in the planning and operating of all types of allowable projects.

5) Inter-racial education: For many students, the school and home environments are predominantly racially and culturally isolated. For these students, special inter-racial or inter-cultural programs should be developed. These programs would not fall under other project categories, such as compensatory or student projects. Such courses would typically be taught outside school hours under the auspices of community groups. They may involve special interest courses, for example, in the arts or academic courses not offered to these particular students in their schools, such as special science activities. The emphasis should be on innovative activities designed to promote inter-racial and inter-cultural cooperation and understanding.

6) Training and Technical Assistance: Some projects might usefully focus primarily upon training community groups to contribute effectively to desegregation planning. Such training activities could include seminars on the issues involved in desegregation, conferences featuring speakers familiar with both educational and community problems, or dissemination of information on innovative approaches to desegregation used in other communities. Technical assistance activities may be developed to respond to short-term needs of individual districts or community groups, including crisis intervention, rumor control activities, and curriculum and textbook review.

7) Activities Linked to Comprehensive Educational Planning: The regulations make clear that special comprehensive planning designed to assist in implementing desegregation planning is an allowable activity. While educational planning is primarily the function of the LEA, other agencies such as community action agencies, councils of government, or city demonstration agencies are also involved in educational planning

or in planning for programs such as housing or relocation for areas affected by the desegregation plan. Additional administrative personnel who would concentrate on desegregation problems, or programs operated by these agencies in support of desegregation would be allowable activities. The main objective of such planning efforts would be to link more closely the on-going educational planning and program activities of these non-LEA agencies to the desegregation activities of the LEA.

While many community projects will need information about the LEA's desegregation plan and implementation efforts in order to design a successful project, the Office of Education will not fund proposals which monitor LEA performance in carrying out the desegregation plan. Several agencies including the Office of Civil Rights, the Office of Equal Educational Opportunity and the Office of Program Planning and Evaluation will have the responsibility for monitoring and evaluating LEA performance.

RELATIONSHIP TO THE LEA

Projects will be much more effective in furthering the desegregation process if there is close cooperation and a two-way flow of information between the LEA and the community organization. Lack of cooperation may, in fact, hamper desegregation. For example, a community group funded for a parent involvement project will need basic information about class distribution and size, extracurricular activities, and teacher training, so that parents can participate as fruitfully as possible in school activities. Similarily, the community organization needs to be aware of LEA activities, so that projects will expand the effectiveness of the LEA's implementation of the desegregation process, rather than proposing to operate duplicate program activities. Finally, since the LEA will have an opportunity to comment on the non-LEA proposal, it is to the advantage of the applicant to seek cooperation before official LEA comment is solicited from Washington.

too much

Therefore, applicants should consult with the LEA regarding the development of the program and its relationship to the implementation of the desegregation plan. They should seek to review the LEA's desegregation plan with the LEA staff, and should arrange for periodic discussions on the LEA's progress in desegregating. In turn, the community group should keep the LEA apprised of the project's activities and progress. The Office of Education will request LEA's to cooperate in this process.

however

The application should include a description of the relationship between the applicant and the LEA, including whether the LEA has agreed to consultation, and whether the LEA has permitted the applicant to review the desegregation plan.

REVIEW BY THE LEA

The Office of Education **will provide the LEA an opportunity to comment on** the project proposal, and on the consultation process with the non-LEA. Where a project serves a substantial number of LEA's, it will not be possible to solicit comments from each LEA. In such instances, the comments of the state educational agency (agencies) will serve this purpose.

In some cases, it will be impossible for the project to be implemented without the close cooperation of the LEA. Activities requiring the use of school property, or the presence of school personnel or students during school hours, must of practical necessity be endorsed by the LEA(s).

REVIEW BY THE STATE EDUCATIONAL AGENCY

Most state educational agencies will also be providing services to LEA's which are desegregating. In order to insure cooperation and the coordination of these activities, state agency officials need to be aware of the project activities. Therefore, the Office of Education will provide the state educational agency an opportunity to review and comment on the project application. Applicants are encouraged, however, to inform state agency officials of their interest and where appropriate to involve them in the development of the application.

REVIEW BY THE OFFICE OF THE GOVERNOR

Under the Office of Economic Opportunity's authorizing legislation (section 242) used in the Emergency School Assistance Program, the Governors' offices must be afforded an opportunity to review proposals. This clearance will be the responsibility of the Office of Education. (It should be noted that this review does not apply to institutions of higher education in existence before August 20, 1964.)

COMMUNITY INVOLVEMENT

The success or failure of the desegregation plan is an extremely important event in the life of any community. If the project is to help in achieving and maintaining a desegregated school system, it is important that members of the target community have an opportunity to participate in and comment on the development of the program. This is particularly true if the program is an innovative one, if the techniques or services will be unfamiliar to the target population, or if the project seeks to expand community awareness of a desegregation plan. Where other activities have been undertaken by non-LEA's in helping to achieve school desegregation, an applicant should seek to develop a program which is consistent with and does not duplicate ongoing community activities.

Advisory Committee

Each project funded should have an advisory committee or board which includes representatives of the persons who are to be served by the project, and which has representatives of minority and non-minority groups. Secondary students should be represented on all such committees. (Students serving on both committees must be selected by the secondary school students served by the project.) In some cases, the applicant will need to organize such a committee. In others, existing LEA advisory committees will fulfill this function. Where a bi-racial advisory committee exists but is not the non-LEA advisory group, a communication link between the two should be developed. Each project application must include either (1) a list of the persons on the advisory committee and the means by which they were selected or (2) plans for organizing such a committee within 30 days of the receipt of the grant award.

Public Disclosure

The grantee is responsible for assuring that the community has an opportunity to participate in the development of the project. Therefore, ESAP regulations require all grantees (LEA's and non-LEA's) to:

(1) Make available within 30 days of receipt of the grant the details of the project for publication in a newspaper of general circulation, (bilingually where appropriate).

(2) Make information about the project available to the general public.

The chief elected official of the city or town affected by the project will also be notified by the Office of Education when the grant is approved.

EMERGENCY SCHOOL ASSISTANCE PROGRAM

GUIDELINES FOR STUDENT GROUPS*

INTRODUCTION

The Emergency School Assistance Program has, as one of its major aims, provisions for the funding of student initiated and operated projects that could materially assist schools and communities in the overall desegregation effort. Butch

Schools, traditionally, have not turned to young people for answers to their problems. Nor have they openly encouraged students to become concerned and active in educational matters. Many forms of student participation have been weak and ineffective, owing to a lack of legitimacy, responsibility, or real power. Student governments, for example, are often considered by students as mere "popularity" contests or as shadow governments of the administration. The result in many cases is distrust and even rejection of what are designed as student channels of communication and power.

The issue is even more critical in newly desegregated schools. Here the attitudes and perspectives expressed by many young people reflect not only student powerlessness but also racial tensions and fears. These tensions and fears can cause considerable frustration, isolation, and disillusionment, particularly among minority students, and can render totally unworkable the normal channels of student participation. Too often parental attitudes and prejudices reinforce these tensions, creating additional pressures which serve to maintain rather than break down racial barriers.

Racial conflict and student powerlessness, then, are the twin realities which make it doubly difficult for student groups to assume a constructive role in bringing about successful desegregation. Yet given some new avenues of responsibility, students have a tremendous potential for producing projects that will ease racial tensions and reinforce desegregation objectives.

Young people in general are more open to change than their elders, and they are better able to adapt specifically to desegregation because their prejudices, where they exist, are less firmly entrenched. Students, too, have come to realize that they have a definite role to play in society and are willing to accept added responsibilities. Finally, students have firm ideas about what is needed to facilitate desegregation because it is they who feel most directly its daily effects.

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*These guidelines are designed as a special student supplement to the Emergency School Assistance Program Handbook for Public and Private Non-Profit Organizations **other than the local educational agency.** They should in no way be considered a substitute for the Handbook.

With increased discussion of student responsibilities and the potential for constructive student participation in educational reform, there is an overwhelming need to provide new opportunities for students to become engaged in helping school administrators resolve some of the problems the schools now face. It is this need which the student aspect of the Emergency School Assistance Program is designed to fill, with a specific focus on the special problems of newly desegregated schools.

MAJOR OBJECTIVES

Students - regardless of race - see as their common concern the need for an education that is responsive to their own particular needs. This critical objective is far more important in the long run than the specific concerns that relate to desegregation and the problems that are inherent in an atmosphere of racial mistrust and tension. In the short run, however, these problems can strangle educational development, and it is here that the Emergency School Assistance Program has its most direct application.

Youth projects funded under the Program will thus have two closely inter-related objectives. The overriding goal will be the improvement of educational services for youth, for there is mutual agreement by all groups that if education were honestly geared to students' needs, the question of racial differences would take on a very small importance, and potential racial hostilities would resolve themselves in the classroom and in the community.

The second major objective will be to find ways to bring improved educational services to youth in an inter-racial setting, through inter-racial action, or in a way that will promote inter-racial understanding and cooperation.

BI- OR MULTI-RACIAL ACTION

The overall emphasis, then, of the student and youth projects in this new desegregation effort is to fund a broad range of student initiated and operated programs which attempt, with a bi- or multi-racial composition, to improve existing school programs and/or policies or to create new activities that are not now being made available. These activities could include community relations and information, parent involvement, compensatory reading projects, inter-racial communications, and inter-racial drama groups, art and cultural programs, and athletic and recreational activities, to name a few. More specific types of programs and activities are discussed later.

UNI-RACIAL ACTION

Even though the basic intent of the Program is to provide inter-racial opportunities for students to improve educational services and policies,

it is recognized that there are circumstances justifying the funding of programs with a particular ethnic target group. This is especially true in relation to compensatory education programs. Young high school Blacks, Chicanos, and Indian youth need to develop new activities that are designed for their communities, especially activities that will help younger students of their own race. U.C.

While it is understandable that these kinds of projects have top priority among many youth groups in segregated communities, every attempt should be made to find ways of reaching out and including other ethnic representation in the project. In addition, the project itself must at least lead toward some form of improved inter-racial understanding, cooperation, or educational equality.

ADVISORY COMMITTEES

One means of involving other segments of the community and other racial groups in student projects is through advisory committees. As with the Local Education Agency (LEA) and other community group projects funded under the Emergency School Assistance Program each student group project must make provisions for an advisory committee. For activities with a uniquely student focus, the advisory committee may be composed entirely of students. For activities which involve or are directed to the community at large, the committee must include representatives of the adult community served.

Advisory committees for student projects can be an important link to the school system and to the general community, as well as a potential resource in securing cooperation and support from outside the student community. As such, student groups should make an effort to enlist teachers, school officials, parents, and other community adults as members or supporters of their project's advisory committee.

Advisory committees can be especially helpful in promoting inter-racial understanding of, and support for, a project's goals and activities. For projects serving an inter-racial group, the committee should probably have equal numbers of minority and non-minority members and must at a minimum reflect the same racial balance as the group to be served. For uni-racial projects, the advisory committee must either have some degree of inter-racial mix or at a minimum be open to inter-racial membership. In cases where it is impossible to secure inter-racial membership on the advisory committee at the outset of a uni-racial project, student groups must indicate what steps have been and will be taken to communicate to other racial groups the importance of the project and to enlist bi- or multi-racial membership.

In many cases, it may be possible for a student group to meet the advisory committee requirements by using an existing student organization or an advisory committee established pursuant to a separate LEA or community

group project. It should be noted that community groups are required to have student representation on their advisory committee and that LEA's are required to establish separate Student Advisory Committees in each school affected by their project which has minority and non-minority students.

If existing advisory committees do not meet the necessary requirements, or if none exist, student groups will have to establish their own committee. In the former case, student groups should at a minimum seek to develop an ongoing liaison with such other committees to avoid duplicative activities and to facilitate communication about desegregation efforts in the community as a whole.

In submitting applications student groups will be required to include either (1) a list of the persons on the advisory committee and the method by which they were selected or (2) plans for organizing such a committee within 30 days of the receipt of the grant award. At this time the relationships between this advisory committee and any other advisory committees in the community should be indicated.

TYPES OF PROJECT ACTIVITIES

Types of activities sponsored by student and youth groups will fall broadly into two areas -- in-school and out-of-school programs. The lists below indicate the types of programs that could substantially assist in the overall improvement of educational services to youth, both inside and outside the school, while at the same time facilitating desegregation objectives. The project examples are all drawn from existing or proposed activities recommended by students themselves and are designed to suggest a range of allowable activities. This list of potential activities should not, by any means, be considered the only ones open for student funding. On the contrary, proposed student projects have a better chance of being funded if they attempt to meet a specific, well identified local need.

A. In-School Projects. All in-school projects which rely to some degree on the use of school facilities or official school personnel, and/or which operate during school hours, must have the approval of local school authorities. Student groups planning such projects, therefore, must clear their proposal with the school(s) involved before submission. In such instances, local advisory committees could be very helpful. The following are some examples of potential in-school projects:

1. Activities that examine existing school policies and procedures, such as dress codes, school colors and songs, disciplinary regulations and codes, etc. with the aim of helping school authorities re-evaluate and re-write those policies and procedures so as to be more reflective of student attitudes and concerns.

2. Activities designed to deal with crises arising out of desegregation conflicts, such as rumor control centers, inter-racial grievance committees, appeal procedures, and student or community hallway patrols as an alternative to police in the schools.

3. Activities that examine existing forms of student government and help school authorities and student government representatives re-evaluate and re-design more responsive forms of student governance.

4. Activities that examine and re-evaluate the existing school curriculum, including supportive materials such as textbooks, films, lectures, and field trips, with the aim of helping administrators and teachers re-write or re-design the curriculum so that it is more responsive to the needs of youth.

5. Activities that re-evaluate existing summer opportunities for youth with the aim of helping school authorities provide new summer programs that are relevant to youth needs and wishes, including projects with a focus on community relations and cultural enrichment as well as those geared primarily to youth employment opportunties.

6. Activities that examine and re-evaluate existing information sources for youth on health, recreation, employment, etc. with the aim of helping school authorities provide up-to-date information for students.

7. Activities that promote new kinds of learning experiences within the formal school setting, such as work-study, community classrooms, student lectures, inter-school seminars or debates, etc.

8. Activities that examine the broad question of student rights and promote and encourage acceptance of new concepts of student rights and responsibilities among school administrators and teachers.

9. Projects that aim at discovering new, student-initiated ideas in the area of drug education and promote bi- or multi-racial attacks on the problem of drug abuse in the schools.

10. Activities that re-evaluate current grading and scheduling systems in the school with the aim of helping school authorities re-examine and re-design those systems.

11. Activities that involve secondary students as tutors for younger students, using regular homework

or special instructional materials, during school hours or in classrooms after school.

12. Activities that entail using inter-racial student teams to assist younger Spanish-speaking students with proper English usage and pronunciation.

13. Activities that examine existing extra-curricular programs, such as clubs, athletics, and student publications, with the aim of working with school authorities and students to make those programs more relevant to student needs.

14. Activities that research student attitudes, values, and opinions so that actions can be taken as a result of the findings which will improve programs and services.

15. Activities that promote forums, conferences, or expanded student assemblies with outside speakers, as well as informal discussions between students and community leaders, so that the student body will be better informed about existing community attitudes and problems.

16. Activities that promote cultural events for students within the school.

17. Activities that promote the inclusion of ethnic studies as a regular part of the school curriculum.

B. Out-of-School Projects. Out-of-school projects provide opportunities for students who feel that school administrators are not sympathetic toward student initiated and operated programs within the school setting, or who feel that they can have a greater impact on improving educational services through extra-curricular or non-school projects. Although formal endorsement by school authorities is not required if school hours, facilities, or official personnel are not involved, student groups should nonetheless make an effort to consult with, and secure the cooperation of, local school officials and school administrators, Here again, an existing advisory committee could be a useful resource. The following suggests the range of out-of-school projects which could be sponsored:

1. New alternative schools offering, during after-school hours, evenings, and weekends, the types of activities and instruction which young people feel are relevant to their needs.

2. Special follow-up activities in the communities geared to handling crisis situations arising out of

desegregation conflicts, such as expanded rumor control operations, community discussions, etc.

3. Special activities geared toward school drop-outs from newly desegregated schools.

4. Activities geared toward an inter-racial approach to drug education or an inter-racial attack on drug abuse.

5. Special programs relating to social and recreational needs of young people, particularly in an inter-racial setting.

6. Activities that provide tutorial services to younger students, whether on regular homework or on basic skills such as reading, mathematics, or English language.

7. Programs that provide ethnic studies for minority youth or which educate students about ethnic cultures other than their own.

8. Programs that relate to juvenile delinquency problems in the community, particularly those that may have arisen as a result of desegregation conflicts.

9. Activities that promote community discussions and examine community problems with local experts.

10. Projects that bring together sympathetic teachers and students to work on common problems after school hours.

11. Projects that sponsor cultural events, such as plays, art exhibits, or concerts, particularly those which promote understanding of an ethnic cultural heritage.

12. Activities that deal with parental attitudes and fears and work toward racial harmony among community adults.

13. Activities designed to educate parents about their proper role and responsibilities in the school system, particularly concerning activities which require parental action or consent.

14. Programs that initiate new kinds of vocational training opportunities within the community, especially in conjunction with a work-study program.

15. Activities that supplement regular school counseling services, whether for vocational or college-bound opportunities.

16. Activities that assist young people in getting part-time employment during the school year or summer employment, particularly with regard to minority youth hiring by non-minority employers.

17. Activities that establish and operate speakers bureaus on desegregation issues for one or more schools or school districts.

18. Activities that have the general aim of discovering and fostering specific ways in which different ethnic groups can work together.

FUNDING AND BUDGETARY CONSIDERATIONS

Student and youth groups will use the same application form and procedures as other community groups and should read carefully the Handbook for community groups to determine eligibility, application procedures, and submission requirements.

To receive the 10% set-aside funds under the Emergency School Assistance Program, a grantee must be either a public or private non-profit organization. For student groups, this means that they must either (1) have a sponsor who is eligible to receive Federal funds, or (2) be legally eligible themselves as a non-profit private organization according to their respective State laws. For legal and administrative reasons, student groups are strongly encouraged to secure a local sponsor. Likely possibilities are churches, colleges and universities, community action agencies, city demonstration agencies, citizen associations, or other community groups.

Most student group projects will be local rather than regional or Statewide in nature and will fall within the roughly $2.5 million set aside for Type B local projects, as described in the Handbook. This does not foreclose the possibility, however, of a Statewide or multi-district student group project being funded or of a highly innovative student proposal being funded as a Type A model project.

It is hoped that from 25 to 50 student projects will be funded, and in order to maximize the total number available for funding, it is expected that student project budgets will be able to operate within a $3,000 to $7,000 range for each discrete project activity. Like other community groups, student groups are cautioned against making the aims of the project so broad or the activities so numerous that in a post-project evaluation it would be difficult to isolate the reasons for successes or failures.

It is a demonstrated fact that students can take a small amount of money and use their energy and initiative to turn it into a highly innovative and successful program. Student groups will be allowed the same type of expenses as any other community group, but they should make every effort to secure donated space, volunteer time, use of a sponsor's accountant or legal services, shared materials and transportation, and the like. In addition to holding down budget costs, these forms of in-kind local contributions increase community involvement in and support of the project. Moreover, they allow a significantly larger number of student projects to be funded, with the benefit of many more models of student involvement in the desegregation process.

EMERGENCY SCHOOL ASSISTANCE PROGRAM

GUIDELINES FOR PARENT INVOLVEMENT PROJECTS

Introduction

Parents are vitally concerned with helping their children to get a quality education. The formation of Parent-Teachers Associations and similar organizations throughout the country has been the principle mechanism by which parents have sought participation in and support of the public schools. These organizations can and have contributed to improving the schools, to developing good community-school relationships, to helping parents make the home environment a better place for learning, and to enabling parents to become effective advocates for their children. Both parents and the school benefit from this process.

In segregated school systems, however, a different picture emerges. Parents who are poor or who are members of minority groups are frequently discouraged from participating in school activities. They see the schools as alien institutions over which they have no influence. As a result, they see no way to protect and support their children's interests. These feelings are aggravated where a language barrier exists. In addition, the poor, minority and non-minority, face additional obstacles such as lack of transportation to meetings, lack of child care facilities, and self-consciousness because of poor clothing or little education. Faced with this situation, few parents are able to become involved.

With the desegregation of the schools, many of the existing organization have tended to dissolve because minority and non-minority parents are apprehensive about an interracial experience, and/or because "white flight" of the middle and upper classes is beginning to take place. New efforts to form organizations which include both minority and non-minority parents can help to bring about greater racial understanding within the community, and help to establish a basis for a desegregated public school system. While special efforts will be needed to reach the poor, the experience of Head Start and other programs, both Federal and Community-based, indicate that when obstacles such as child care and transportation are removed, parents do participate.

Purpose

The purpose of projects funded under this category is to develop and/or encourage participation by minority and non-minority parents, particularly the poor, in school activities. Projects should emphasize bringing minority and non-minority parents together around the common cause of bettering their children's educational experience. The type of project activities that would be most effective will depend on the community involved, the degree of participation minority and non-minority parents already have in the schools, the attitude of the LEA toward this participation, whether or not a language barrier exists and other factors.

Program Requirements

All projects funded under the Emergency School Assistance Program must comply with the program requirement discussed in the Handbook for Public and Private Non-profit Organizations. The material contained in these guidelines is intended to supplement the Handbook. Applicants should read the Handbook carefully before submitting a proposal to insure compliance with these requirements. The items described below are of special importance to parent involvement projects.

Advisory Committees (see section on "Advisory Committees" in the Handbook)
The requirement that the advisory committee be representative of the people to be served by the projects, means that advisory committees under the category must have a majority of parents. Parent involvement projects are also encouraged to have representatives of the schools on these committees, where possible, so that lines of communication with the school system can be established.

Relationship to the LEA - (see section on "Relationship to the LEA" in Handbook)
The degree of cooperation that exists between the applicant and the LEA will influence the kind of project that can be undertaken. Applicants are encouraged to seek such cooperation. This is particularly important where projects are seeking to develop relationships between parents and the school system.

Activities

The activities described below suggest some kind of projects that organizations may wish to undertake. They should not be considered rigid suggestions. Applicants should identify the need in their own community and develop the type of project that will meet that need. It is assumed that applicants, in designing their project, will propose methods of overcoming the obstacles to participation, such as transportation and child care.

1) Helping parents to understand how the school system works, how decisions are made, and how they can participate in this process to assist desegregation.

2) Working with parents and teachers to promote better understanding of the school environment and the home environment. Activities could involve parents visiting the classroom, or home visits by teachers. Bilingual and/or neighborhood aides may facilitate this process, particularly where a language barrier exists.

3) At the pre-school and elementary school level, working with parents, teachers and school administrators to:

a) Develop or change dress codes in order to have them reflect standards acceptable in that community, and within the reach of poor people.
b) Develop mechanisms for dealing with disciplinary problems that are acceptable to parents, teachers, and administrators.
c) Revise curriculum, and select textbooks that have current information and that reflect the contribution of minority groups.
d) Develop school food programs that take advantage of all available Federal and State food programs and that reflect the ethnic values of the community.
e) Provide diagnostic and treatment programs for hearing, speech and vision defects that affect the ability to learn.
f) Develop a policy regarding parental access to the school building and time convenient to parents.
g) Develop a policy regarding the presence of police in the schools.

4) At the junior high and secondary school level, working with parents, teachers, students, and school administrators to:

a) Develop or change dress codes so that they are acceptable to all.
b) Handle disciplinary problems in a way acceptable to all.
c) Revise curriculum and select textbooks that reflect the contribution of minority groups, and that provide current and relevant material.
d) Provide food programs, taking advantage of all Federal and State food programs, that meet the needs of low-income children and reflect the ethnic values of the community.
e) Develop extra-curricular and social activities for an interracial student body.
f) Develop a policy regarding parental access to the schools at a time convenient for parents.
g) Develop a policy regarding the presence of policy in the schools.
h) Provide diagnostic and treatment services for hearing, speech and vision defects that affect the ability to learn.
i) Review and evaluate the effectiveness of existing guidance and counseling services to determine if they help minority and low income students take full advantage of their potential, including especially, encouraging higher education and providing information on scholarship and loan programs.
j) Determine if the guidelines and counseling services provided to students entering the labor market are effective in assisting them to function successfully in the "world of work".

5) Work with school administrators and others to develop compensatory and remedial programs for children victimized by past discrimination.

6) Developing programs for parents on nutrition, child care, and other topics of interest to parents.

7) Provide training for parents who are new members of school boards or advisory committees, so that they can make a more effective contribution.

8) Develop programs of bilingual education for parents so that parents can communicate effectively with each other and with school officials.

9) Programs or activities that will improve understanding between parents, such as ethnic studies or joint efforts on a community problem of interest to both.

Emergency School Assistance Act
Guidelines for Compensatory/Remedial Projects

Compensatory/Remedial programs can be of great help in redressing educational imbalance caused by inadequate instruction in previous grade levels or schools. Such programs can often help foster constructive student attitudes and aspirations, build student self-confidence and relieve tension arising out of the "newness" of the desegregation experience. These programs will, of course, vary greatly from community to community depending on the specific problem or problems being addressed. All such programs should, however, share certain general characteristics. As the overall intent of the Emergency School Assistance Act is to produce meaningful desegregation, those proposals which are most clearly and closely linked to the desegregation goals of a particular community will naturally be given the most serious consideration. It is recognized that a compensatory/remedial project might well reenforce and expedite school desegregation even while having its most immediate impact on a group of students predominantly or even entirely of one race. Whenever possible, however, activities which involve actual interracial experiences for the project participants should be encouraged. Individuals with professional expertise may often be indispensable to a well-run compensatory program; emphasis should, however, be given to activities which allow for broad and significant community participation in both the planning and implementation stages of the project. The following general types of programs are offered as examples of activities which have shown promise in past situations.

1. Tutorial Programs

Some communities have instituted tutorial programs for students of any ethnic group who are falling behind in one or more subject areas. Such projects are usually among the most successful compensatory/remedial programs, especially when they focus on improving basic skills such as reading and arithmetic. Tutorial programs aimed at improving pronunciation and general language skills might offer attractive possibilities in bi-lingual areas.

Local high school students might be utilized to tutor younger students after school hours and on weekends. One such program which worked well allowed the tutors themselves to decide how many hours they wished to work -- the average being from 5 to 7 hours per week. It was found that the best results were obtained when the tutors were five or more years older than their pupils and when they were promptly and regularly paid.

Tutors may, of course, be older persons -- college students, interested parents, members of a particular club or organization, or merely individuals interested in taking part in such a project. They may volunteer their time or be paid (as in the above example). It is recommended that the tutor:pupil ratio be kept as low as possible. A 1:1 ratio is best and it should never exceed 1:3 unless the tutor is a professionally trained individual. The best projects have offered minimal training programs for the tutors, usually consisting of basic person-to-person relations and fundamental teaching techniques.

2. Classroom aides

Classroom-aide projects, in which adults from the community have been paid to assist teachers in the classroom for from one to three hours per day, have often been quite successful in giving the teacher a greater insight into student attitudes and problems and in providing greater opportunities for work with individual students or small groups of students. These projects work best when the aides are from the same general background as the students they are working with. The projects are similar to tutorial projects in that the best results are usually achieved when the emphasis is on improving basic educational skills. Bi-lingual aides can often provide great assistance with problems arising from language difficulties.

Obviously, a classroom-aide project which uses school facilities and operates during school hours will require the approval and active cooperation of the school administrators and teachers involved. The key to these projects lies in the relationship between the teacher and the classroom aide. Little will be achieved if the teacher attempts to limit contact between the aide and the students by assigning the former only custodial-type duties. Likewise, failure of the project is almost inevitable if the aide appears to be challenging the teacher's preeminent position in the classroom. It is therefore absolutely essential that the individual teachers and classroom aides arrive at a full understanding of their respective roles before such a project is actually put into operation.

3. Home Environment Projects

Closely allied with tutorial and classroom-aide programs are programs which stress the creation of an education-oriented home atmosphere through such activities as parent-child home reading projects and school-related family or neighborhood outings. For example, in one home reading project parents helped their children develop reading skills through an at-home "Read-Aloud" program and by encouraging them to join a "Bookworm Club". (Children were given a tally sheet on which they placed stickers provided for the 15 sections of a "bookworm" -- one for each book read.) The Read-Aloud program helped children with vocabulary and pronunciation difficulties, and the Bookworm Club provided an incentive for leisure reading in general. Parents were giving an initial briefing by teachers, each family was provided with a child's dictionary, and attractive "special" reading booklets were made by cutting up discarded primary level textbooks and putting each individual "story" in a colorful paper cover. This program not only helped children develop better reading skills and habits but also involved the parents more thoroughly in related school activities.

4. Vocational Projects and Counseling

On the secondary school level, concrete help in vocational matters can be one of the most useful activities performed in conjunction with the school program. A well-organized community program might coordinate the services of several agencies, including local employers, skilled workers, employment agencies, training programs, employment test administrators, and community development organizations. Students could learn interviewing techniques, job skills, impressions of what is involved in various jobs, how to get training, etc. Special work-study programs might be set up to complement those of the schools' vocational department and local OEO programs.

5. Academic Counseling

Another type of activity that could prove quite helpful to secondary school students would be counseling services designed to keep students from dropping out of school and to encourage others to go on to college. Such a program could involve students who had recently dropped out of school as well as those still in classes. It would probably be rather easy to combine these counseling services with the vocational counseling program mentioned in the preceding paragraph.

6. Libraries and Special Studies

In some communities special libraries have been set up for subjects such as ethnic-group studies, international music and art, class history of America, etc. These libraries could easily be expanded to include actual classes in subject areas inadequately covered by the school curriculum -- for example, Black or Indian Studies, the role of the Mexican-American in the history of the Southwest, historical inaccuracies in school textbooks, combined minority-group studies, and related subjects.

The above examples are not, by any means, intended to be all-inclusive. Many other types or variations of compensatory/remedial programs might well be funded under the Emergency School Assistance Act. The overriding criteria will, in all cases, be program quality, community involvement, and potential contribution to meaningful desegregation.

Like all other types of programs, compensatory/remedial projects must meet the technical requirements (such as having a bi- or multi-racial Advisory Committee, securing written LEA approval for projects utilizing school facilities or personnel, etc) outlined in the main body of the Grants Manual. Any group planning to submit a proposal should read these regulations carefully beforehand.

Cut off date for receiving applications - ~~so~~ one week to wks.

when will grants be made - late Oct or early Nov. ~~tha~~ some will be funded.

all money must be committed by 6/30/71

all " " " spent " 6/30/72

funds - 90% - have been given to

"Your school district - your enemy thus far"

statement of young black man - student - at meeting

$275,000 now earmarked for student groups

Bubb shd. get in touch w. them now about this. But unless it is definitely earmarked he shd. not compete for funds

file ESAP

Rejection List – Mention of Supplemental Funds

Alabama

Mobile State Junior College
Tuskegee Institute
Neighborhood Organized Workers
Miles College
Autauga County Community Action

Arkansas

Crittenden County Improvement Association
Arkansas Education Association

California

Social Action Research Center

Colorado

Commission on Community Relations, City + County of Denver
Education Task Force, Denver Urban Coalition (4 proposals)

Georgia

Literacy Action
Slash Pine Community Action Agency, Inc.
~~Floyd County Health Dept.~~ [Floyd County Health Dept.]
Council on Educators of the Disadvantaged Reader
South DeKalb Neighbors
Human Relations Program at Morris Brown College
Southeast Regions of YMCA's
Community Coalition to Solve Desegregation Problems
Georgia Region of the Nat'l Conference of Christians + Jews
Educational Institute for the Advancement of Minority Groups

Rejections cont'd

Georgia, cont'd

The Southeastern Regional Butler Street + the Atlantic YMCA
Seeking, Inc.
Atlanta Community Relations Commission
Teacher Welfare + Citizen Participation Division

Florida

Seminole Community Action, Inc.
Youth for Progress through Education
Concerned Teens for a Better Community
Florida Student Volunteers
Broward Estates Civic Association
Florida Educational Research + Development Council
Alachua County Bi-racial Advisory Committee
Intensive Tutorial Project
Williams Middle School Parents, Teachers Association
The Awareness Center
Dade County Chapter, National Conferance of Christians + Jews
University Volunteer Services
Lean Interfaith Child Care

Kentucky

Mayfield Community Womans Club Association for Specific Neuro-Motor Disabilities

Louisiana

Regina Coeli Child Development Center, Inc
Lemoyne Community Action, Inc.
American Federation of Teachers Local # 527
Special Projects Committee Wm. Lusher P.T.A.
Rampart Street School

Rejection List

Louisiana, cont'd

Gentilly Development Association
Southern Organization for Unified Leadership
Citizenship Education Committee of the Louisiana Education Association
Northwestern State University

Mississippi

Quitman Center for Learning + Educational Development, Inc.
Parent, Inc.
Gulf Coast Council on Human Relations
[illegible]
Harrison County Community Action Agency
Student Tutoring Center
Sophia Sutton Mission
Lauderdale Economic Assistance Program, Inc.
Mid-State Opportunities, Inc.
Black Studies Proposal from Mount Bayon Schools
Lift, Inc.

New Jersey

New Jersey Education Association

New Mexico

National Indian Youth Council

North Carolina

Shaw University
Yadkin Valley Economic Development
Raleigh Community Relations Committee

Rejection List

North Carolina, cont'd

N.C. Congress of Parents & Teachers
Asheville Association of Classroom Teachers
Intramural Sports Office, University of North Carolina
Cumberland Community Action
Wayne County Welfare Rights Organization
Youth Services Center
Church Women United
Rowland District Desegregation Service Group
Harnett County Unit NCAE

South Carolina

Aiken-Edgefield Counties Community Action Commission, Inc.
Jasper Organizations of Involved Neighborhood
Eastern Carolina Career Opportunities Advisory Board
Shandon Community Educational Association, Inc.
Midlands Community Action Agency
Florence County OEO Committee
Greenville Education Committee, Inc.

Tennessee

Fair Housing Foundation, Inc.
Community Relations Conference

Texas

Black Services League
Bishop College
Colegio Jacinto Trevino
Southwest Council of La Raza Nueva Vida Community Development Corporation

Rejection List

Texas, cont'd

Association for Education Unlimited
Bowie County Economic Advancement Corp.
Association for Educational Understanding
Bishop Community Action Association, Inc.
San Antonio Urban Council, Victoria Courts Community Council
Rusk-Cherokee CAP

Virginia

Virginia Region, Nat'l Conference of Christians + Jews
Delta Sigma Theta, Inc.

Rejection List

Alabama

Moundsville Development Corp.
Alabama Association of School Boards
University of South Alabama

Arkansas

Center for Education & Research
Arkansas Mid-Delta OEO, Inc.

Florida

Florida Consortium for Human Resources
Florida Education Association

Georgia

Southern Regional Office, CEEB
Charlton County Board of Education
Georgia Southern College

Mississippi

Amite County Tutoring Pro
University of Mississippi

North Carolina

Learning Institute of North Carolina (LINC)
City of Gastonia
East Carolina University

South Carolina

BAV Black College Consortium

Tennessee

Vanderbilt

Texas:

Healy-Murphy Learning Center
National Conference of Christians + Jews

Rejection List

Alabama

Moundsville Development Corp.
Alabama Association of School Boards
University of South Alabama

Arkansas

Center for Education + Research
Arkansas Mid-Delta OEO, Inc.

Florida

Florida Consortium for Human Resources
Florida Education Association

Georgia

Southern Regional Office, CEEB
Charlton County Board of Education
Georgia Southern College

Mississippi

Amite County Tutoring Pro
University of Mississippi

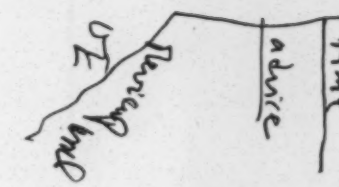
North Carolina

Learning Institute of North Carolina (LINC)
City of Gastonia
East Carolina University

South Carolina

BAU Black College Consortium

Rule of thumb for a dummy course: not a MT location.



Emp-South

SOUTHERN REGIONAL COUNCIL
RM. 432, 63 AUBURN AVE., N. E.
ATLANTA, GEORGIA

NPA Committee of The South REPORTS

#40

SELECTED STUDIES OF NEGRO EMPLOYMENT IN THE SOUTH

Negro Employment in the Birmingham Metropolitan Area

Economy via

Employment - South

Vera Rony

BOGALUSA: THE ECONOMICS OF TRAGEDY

The press has done justice to the woeful catalogue of demonstrations, shootings, and court injunctions suffered by this paper-mill town in the past year. There has been little exploration, however, of the causes of Bogalusa's agony: automation, economic frustration, and civic myopia. For Bogalusa is no redneck hamlet, dominated by musty tradition and the paternalism of an entrenched and locally controlled industry. Until recently the town has prospered under the influence of a progressive national corporation and strong Northern-based unions. Yet it was here that the economic urgency of the civil rights movement has most clearly come into focus: Negroes and whites fighting for the same jobs in a work force drastically reduced by technological change.

Bogalusa's anguish was not inspired by the economic demands of its Negroes. It began in December, 1964, when six prominent white residents became concerned because the town's public facilities were still segregated five months after passage of the Civil Rights Act. They invited former Arkansas Congressman Brooks Hays, a racial moderate, now associate director of the Community Relations Service, to speak on the experience of Southern communities in complying with the new law.

When the invitation became public, a cross was burned in front of the home of Reverend Bruce Shepherd, a signer of the invitation, in whose church the meeting was to be held. Several thousand handbills with the following text were distributed door to door:

> [the purpose of this meeting] is to convince you that you should help integration by sitting in church with the black man, hiring more of them in your business, serving and eating with them in your cafes, and allowing your children to sit by filthy, runny-nosed, ragged, ugly little niggers in your public schools. We will know the names of all who are invited to the Brooks Hays meeting and we will know who did and did not attend this meeting. . . . Those who do attend [will be] dealt with accordingly by the Knights of the Ku Klux Klan.

A few days later, the vestrymen of St. Matthews Episcopal Church voted seven to one against opening the parish hall for the Hays meeting;

Dissent May-June 1966

PAGINATION INCORRECT

their insurance did not cover bombing. And on January 5, the invitation to Hays was withdrawn. "We searched our souls day and night," said Shepherd, a former combat bombardier in Korea. "Cars filled with Klansmen kept going by our houses. We didn't want to give in to the Klan. But we had no one with us. We didn't have labor, business, city officials, or the law. We were just six guys bucking the whole town."

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Why was it that Bogalusa, like Sodom, could not produce ten good men in a crisis? A partial answer is to be found in the brief but contradictory history of the town itself. In 1906, the Great Southern Lumber Company decided that Bogue Lusa—Choctaw for "smoky water" —would make an ideal location for the world's largest sawmill, to be surrounded by a town "laid out with . . . care and provision for the future." This care and provision included company houses, utilities, hospital, YM- and YWCA. But within fourteen years the monster mill, consuming fifty acres a day, had almost depleted the surrounding forests. Great Southern responded by instituting the first large-scale reforestation program in the history of the Southern lumber industry. By 1938, however, the local timber resources proved inadequate, and the company sold out to the Gaylord Container Corporation, a paper-products firm that in 1955 merged with the much larger Crown Zellerbach Corporation.

Crown knew little about the South when it came to Bogalusa. Its headquarters are in San Francisco and its 26,000 employees are scattered for the most part across the Pacific States. Since 1955, its sales have risen 58 per cent, to $622 million, making it the second largest paper-products manufacturer in the country. But in this highly competitive industry, this means only 4 per cent of the market. It also means continual plant modernization to keep pace with the industry's rapid technological change; by 1957, Crown had already built a new bag plant in Bogalusa.

Bringing the same progressive spirit to bear on its relations with the community, Crown began divesting itself of such utilities, houses, and stores still under traditional company control. But in 1960, the demands of competition collided with those of communal harmony. As Board Chairman Reed O. Hunt later explained: ". . . to make the mill fully competitive in the industry it had to be extensively modernized. . . . It was also clear that the mill was greatly overstaffed and that the work force would have to be reduced. . . . We made every effort to explain the situation to the union but tension inevitably developed."

This tension erupted in August, 1961, into a strike that lasted seven months. The company insists that, while it was a costly strike for all concerned, there was no residue of bitterness. But Paul Phillips, inter-

national president of the United Papermakers and Paperworkers, which maintains white and Negro locals in Bogalusa, hotly disagrees: "All that consultation stuff is malarkey. The company made those decisions unilaterally—that's why we struck. Our people felt the rug had been pulled out from under them."

Between 1961 and 1965, Crown spent more than $35 million on plant modernization and laid off 500 Bogalusans, black and white. There was no program, city-, company-, or union-sponsored, to attract new industry or to retrain displaced workers. They were merely placed in Crown's pool of unassigned labor, known as the Extra Board, where from time to time they could find temporary work. Since the Extra Board was segregated in 1961, displaced Negroes had access only to the most menial jobs. Nevertheless, unemployed whites were shocked to find themselves confronting Negroes in the same predicament—and in the context of a civil rights movement determined to destroy the social equilibrium upon which they depended.

In this tense social climate Crown Zellerbach confronted Executive Order 10925, signed by President Kennedy in March, 1961, requiring all firms under government contract to provide equal-employment opportunities for their workers. Crown waited more than a year before it moved, and moved, by its own admission, only its mouth. "We were aware that this was the first initiative in Bogalusa to alter the accepted pattern of race relations in the community and that we were taking it after a prolonged labor dispute," Chairman Hunt recalled for the stockholders. "... We felt it was essential to move ahead on the basis of a patient and thorough explanation. . . ."

In doing so, Crown ignored the experience of other Southern firms which have desegregated without incident: namely, that once a policy of integration is announced, a clear-cut procedure pursued with reasonable speed is far less inflammatory than a "patient and thorough explanation" —particularly if it lasts a year and a half! This lengthy study period was not, however, entirely Crown's responsibility. The other major parties were the white paper unions; their sentiments were immovable. When the company invited Victor Bussie, president of the Louisiana AFL-CIO Council, to assist in these discussions, these Unionists told him to go home. Bussie, one of the South's most effective labor leaders, was somewhat nonplussed by the United Papermakers and Paperworkers and the International Brotherhood of Pulp, Sulphite and Papermill Workers, who share jurisdiction over the 2,900 workers at Crown and another 13,000 in the state: "The state council has managed to keep the allegiance of most locals throughout the integration crisis, but not the

paper unions; 45 per cent of them have disaffiliated. Most of these locals are in small towns, and the bulk of their membership consists of farmers who quit the land recently or one generation back. It's the most fundamental kind of Southern conservatism, the hardest kind to reason with."

There was another, though silent, partner to this company-union talkathon which lasted from the spring of 1962 until December, 1963—the General Services Administration, which had awarded several lucrative Federal contracts to Crown. During this period, the agency completed twenty-four reviews of the company's fair-employment practices and found them in compliance with government policy. GSA obviously based its approval on the company's *plans* for integration, since the plant remained totally segregated. But finally, in early 1964, Washington began to prod Crown into action.

Separate plant entrances for Negroes and whites were abolished, along with separate drinking fountains (which now have long spouts and paper cups). The toilets, always a hazard, were integrated but with partitions between the white and Negro sections. Only after violence erupted last year did the company try to desegregate its restaurant. But no sooner did the Negroes arrive than the whites left, and the private concessionaire was forced to close. The integration of time clocks was delayed until 1965, and, although the signs have been removed from the pay windows, Negroes are still to queue up at their old windows.

However, Crown's most significant act was to integrate its Extra Board in May, 1964, enabling Negroes as well as whites to be assigned to jobs on the basis of seniority. But the company frankly concedes that the impact of this innovation was limited: "Due to the manpower situation in the mill, the labor turnover since the policy was put into effect has not been great. Consequently, few Negroes have been able to obtain permanent jobs in progression lines formerly set aside for whites. Few whites have moved into jobs formerly held by Negroes."

To the white workers the integration of the Extra Board, after three years of reduced employment caused by automation, was the nightmare of Negro competition come true. The Klan lost no time exploiting the fear of job loss to Negroes; its ranks increased during 1964 to an estimated 800 members in a population of 22,000, reportedly the highest concentration in the South. And to job anxiety was added the agitation for civil rights legislation, the national outcry at the murders of Chaney, Schwerner, and Goodman, and finally, the passage of the Civil Rights Act, Title VII which guaranteed the widening of the fair-employment breach so cautiously opened by Crown Zellerbach.

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About noon on July 3, 1964, the day after the Civil Rights Act became law, two Negro girls, about twelve years old, sat down at the lunch counter of Woolworth's and requested service. Within an hour, a hundred white men had assembled in front of the store; they remained there until dark, although the children had long since fled.

In the rare, fortunate Southern community, a danger signal like this is promptly answered by a firm call for law and order from the powers that be. Here, the mantle rested on Crown Zellerbach, whose $19 million annual payroll provides 70 per cent of Bogalusa's income and which employs two of the town's four commissioners and several of its councilmen. But the company chose to remain silent. So did Mayor Jesse F. Cutrer, the protégé of Vertrees Young, a prominent local moderate and retired Crown vice-president. The resounding stillness extended into December before it was broken by the ill-fated invitation to Brooks Hays. When the Klan responded by intimidating the entire community, it ignited the racial confrontation that still continues.

At the time, the vigilante victory in forcing the withdrawal of the invitation was complete—inside Bogalusa. But the Hays episode was widely reported by the press, and Crown's switchboard in San Francisco was soon deluged with calls from news media, irate citizens, and government officials. The company no longer hesitated to make its influence felt; a few days later Mayor Cutrer notified the Bogalusa Civic and Voters League, which represents the Negro community, that his police would provide full protection for the testing of public accommodations, starting on January 28, 1965.

The first day of testing went smoothly, and Mayor Cutrer, clearly relieved, declared the tests successful—and concluded. But the Voters League, fired up by indignation, publicity, and hope, scheduled a rally to launch a systematic assault on all of Bogalusa's segregated facilities.

"That was February 1st, and the [Negro] Union Hall was packed. People in the aisles, in back, everywhere," Jacqueline Hicks, a leading militant, recalls. "Bill Yates and Steve Miller of CORE were telling us how much we could do in Bogalusa if only we stuck together and kept fighting. . . . We never had a meeting like that in this town before."

Meanwhile equal excitement was stirring on Columbia Road, the town's main street, where white men were assembling and talking about the two white "outsiders" from CORE bringing trouble to Bogalusa.

Yates and Miller had arrived at the Robert Hicks's home on East Ninth Street, where they were to spend the night. At 11:15 p.m., Chief of Police Claxton Knight came to inform them that he could no longer guarantee their safety in Bogalusa; he advised them to leave at once.

It was a paralyzing moment for the Hickses: their two youngest children were at home, and it had not been easy to finance their pleasant, sprawling ranch house. "But we didn't even have to remember Chaney, Schwerner, and Goodman. We just knew that if Yates and Miller left our house at that moment, we would never see them alive again," Bob Hicks recalls. Informed that the two CORE workers would stay, Chief Knight took his leave with a parting warning: "We have better things to do than protect people who aren't wanted here."

While CORE, alerted by Yates and Miller, reached out frantically for help from Washington, word of the impending siege at the Hickses flashed through Jewtown, Poplas, Moden Quarters, and other widely separated Negro sections. Within minutes, carloads of armed Negroes poured into East Ninth Street. Now the rumors began to travel the other way; the Klan never came near East Ninth Street. The Movement had finally arrived in Bogalusa.

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These events still did not elicit a law-and-order statement from Crown or the unions. Not until April 2 did the local Crown manager speak out against violence and intimidation, a reticence the company explained by insisting that civil rights is a community responsibilty.

The international unions made no statement at all; nor did their locals take advantage of the mediation efforts of the AFL-CIO's Bussie, who returned to Bogalusa in April to help establish communications between the town officials and the Voters League, now under new leadership.

This changing of the guard is a frequent occurrence in the civil rights struggle. The old preacher-teacher-insurance-agent leadership of the Voters League lacked the nerve for the aggressive enterprises of Bogalusa's aroused Negroes. By April, A. Z. Young had assumed the presidency and Bob Hicks the vice-presidency of the organization. Both men had developed their skills in the service of Local 624, the Negro wing of the Pulp, Sulphite Union: Young was the local's president for a decade; Hicks was a trustee for years. Their union experience equipped them to voice those fundamental economic grievances that do not surface in every civil rights battle but could hardly be surpressed in Bogalusa, where the median income for Negro families is $2,200 a year.

The Voters League launched a vigorous campaign for more and better jobs—whose thrust was naturally directed at Crown. The League pounded away at the statistics: 9,000, or one out of three, Bogalusans are Negroes; yet of Crown's 2,900 employees, Negroes account for a mere 390, or one out of seven, and they are grouped in the poorest paid and

least skilled jobs. At Crown as elsewhere, the demand for more jobs is inseparable from that for better jobs, since Negroes cannot hope to become a significant part of the work force without access to skilled jobs.

The Voters League's first proposal was jobs for women, who presently lack any alternative to working as maids for $18 a week. Crown which employed 200 white women, did not have a single Negro woman on the payroll. But the League's fundamental demand was access to better-paid skilled jobs. "I came to Crown in 1950," said Otha Peters, the current president of Negro Local 624, "the same time as Hilton Beard, the president of our white local. I couldn't go beyond porter, so I make $2.16 an hour, while Hilton, who is a millwright, makes $3.45. Sometimes we talk about it, and Hilton says, 'You should've been born a white boy.' "

When Chairman Hunt announced the integration of the Extra Board, he acknowledged the limitations imposed on this policy by the low labor turnover, due to automation and reduced sales, which left the plant operating at half capacity. And he did not mention that only nine Negroes had moved into formerly white job lines during the first year of integration. Pedro Mondy, official of Negro Papermakers Local 189A, said it could hardly be otherwise: "Take the recovery room in the paper mill. There are twenty-two jobs; before '64, the top seventeen were restricted to whites, the bottom five to Negroes. Now supposing that after the company announced the integration, the senior Negro wants to move into a white job, which he knows how to handle 'cause he's done it in emergencies. He's got to leave *his* job, give up his seniority, go into the Extra Board, pass a tough test, and then wait his turn on the Extra Board. If he does get the job, he'll be the first one laid off. And if it's more than six weeks since he left his old job, he can't go back—he's out of luck."

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Repeated conferences during the first half of 1965 between the company, the unions, the Voters League, and local officials failed to produce a single new job for a Negro in Bogalusa. The pace of demonstrations accelerated, as did the physical attacks by white men and the jeering by their women and children. On June 2, Washington Parish Deputy Sheriff O'Neal Moore, a Negro, was slain by night riders. On July 8, Henry Austin of the black Deacons for Defense shot a white man who attacked a Negro child during a demonstration. Nearly 100 people were arrested during those hectic weeks. And on July 10, CORE obtained a Federal injunction ordering the police to provide full protection to civil rights workers (subsequent injunctions have been issued

against local officials, the Klan, and individual members of the police).

Five days after the injunction, Crown Vice-President Francis M. Barnes flew from San Francisco to confer with the Bogalusa Voters League. It was a pilgrimage at least partially motivated by the prodding of the GSA, which had just awarded Crown a new $12 million contract.

Confronting Barnes were three Negro women who had applied at Crown and "been turned around so often" that they kept asking local plant manager Roy Ferguson to repeat his assurance that henceforth the applications of Negro women would be accepted. Next followed an illuminating exchange between management and Bob Hicks:

> *Ferguson:* "All jobs are open, Mr. Hicks, at this time. They may not have been open in the past."
>
> *Hicks:* "Not all jobs are open because they have some jobs for colored and some for whites as of today. My job is predominantly colored. I put in for this other [paste machine operator] my experience. I had done this job for a number of years before this automation came in. These [white] men had no experience, yet they were selected and put on that job. And then the same thing . . . you must take a test. It doesn't require a test for a man to do work that he has been doing for years. And in the department where I work, they bring white men in on these jobs that have training in other departments . . . yet we have to show them or they can't make it. . . . But the job I'm in, no white men have ever worked in it. . . . Yet and still, you turn right around and hire these [white] men that did not pass the test to come to work in the job that is especially for Negroes. Now these are the facts."
>
> *Crown Lawyer:* "Would you go over that again?"
>
> (The tests that Hicks referred to were instituted in January, 1963, after the company's announced intention of complying with Presidential Executive Order 10925.)
>
> *League Lawyer:* "An employee told me that an examination for a manual labor category contained a question: 'If a man was fishing for two hours and caught three fish, if he fished the next day for five hours, how many fish would he catch?' "
>
> *Barnes:* "What did he use for bait?" (Laughter)
>
> *Hicks:* "Since the white man was hired before the test [was instituted] and promoted in the line of progression and wasn't subject to a test, why subject a man to a test now because he is black?"

As Robert F. Collins, one of the League's attorneys, said in summation: "The real issue is what, if anything, the company is willing to do to compensate for the past discrimination. To merely say that at this point you are going to be fair is not enough." This is the view that most appalls the company and the white unions.

No company answer was forthcoming or expected at this meet-

ing, although Negroes credit it with two improvements later negotiated with Local 624: Negroes need no longer leave their old jobs and enter the Extra Board to apply for formerly white jobs, and they retain seniority on their old job in the event of return. But later, Delos Knight, Crown's public relations officer in Bogalusa, spoke quite frankly about the League's demands: "Papermaking is still an art. Despite all the new machines, men still have to hold the paper up to the light to see if it's okay. You can't turn the whole plant upside down and fire the people already working for you in order to right the wrongs of the past. There is no instant solution. This company cannot be expected to solve these problems by itself. The government will have to lay down industry-wide guidelines." President Phillips of the Papermakers put it in even stronger terms: "Even in all-white plants in the North, the top machine jobs take five years of training. You can't do more than start Negroes and whites in *all* job lines.... If you try to place every man according to seniority, you'll have to shut down the mill. The whites won't stand for it."

Thus the economic tragedy of Bogalusa, planted by automation and nurtured by the indecision, delay, and timorousness of Crown Zellerbach and the unions, has become by default the problem of the federal government. Until recently, the voices of Knight and Phillips seemed to echo more loudly in Washington than those of Bogalusa's Negroes. Despite warm expressions of interest from the President's Commission on Fair Employment Practices, the last five months of 1965 saw no increase in the number of Negroes in white job lines at Crown. On December 18, the commission finally acted. Chairman Franklin D. Roosevelt, Jr., conferred in New Orleans with top officials of Crown and the Negro and white locals of the United Papermakers. He extracted a pledge from both locals to accept full integration of functionally related job lines, according to seniority, without bars to competent Negroes.

Though the details remain to be settled, the agreement appears to be a major triumph for law enforcement and for Bogalusa's Negroes. But this triumph may be more apparent than real. "Sure," the agreement sounds good," says Bob Hicks. "But three days after it was made, a Negro recently promoted into a white job line found twenty hooded Klansmen waiting for him in the company parking lot, about ten yards from the mill entrance. They told him he'd better quit, and he did. The company said it couldn't do a thing about it. A few days ago, a Negro high school senior in a formerly all-white school was beaten up for the third time; he wants to quit, too. But Crown still won't discuss any community problems with the Voters League. And as long as the Company keeps these attitudes, Bogalusa's troubles will continue."

Title VII

TACTICS PLANNED ON JOB BIAS FIGHT

Extended Rights Law Covers 6 Million Employes

By C. GERALD FRASER

The NAACP Legal Defense and Educational Fund, Inc., mapped strategy yesterday based on newly effective Federal laws, to fight job discrimination throughout the nation. It will put "heavy emphasis" on textile and pulp-and-paper industries in the South.

High-ranking Government attorneys and law school professors met with nearly 100 private attorneys at the Summit hotel, at Lexington Avenue and 51st Street, in a two-day Conference on Equal Employment Opportunity that ends today.

"This is not an inspirational or a public-relations meeting," said Jack Greenberg, the fund's director, "it's merely to improve skills. It's mostly technical stuff."

On July 2, Title VII of the 1964 Civil Rights Act became fully effective. The equal employment opportunity provision of the law was widened, adding 195,000 employers with 25 or more employes.

The law now covers about six million employes, Mr. Greenberg said.

Mr. Greenberg said the fund was planning to concentrate its legal battles against discrimination in the South because "We're looking for areas where there are large Negro populations and expanding industries."

The pulp-and-paper industry is undergoing a $3-billion expansion and two-thirds of it is in the South, he explained.

"Key firms are in the South and especially in areas where there is a high incidence of poverty," he told reporters at the opening of the conference.

He added that Negro slums in the North continued to grow because of migration from areas where Negroes are denied equal job opportunities.

Use of Tests Criticized

A main aim of the conference is to develop legal techniques for striking down what fund lawyers termed "the most frequently used means of discrimination against minority-group workers" — the abuse of seniority and testing.

One of the fund's employment specialists, Miss Gabrielle Kirk, a lawyer, said that in many instances "Negroes take tests whites are not required to take."

Miss Kirk and another fund attorney, Robert Belton, directed the conference.

The fund is now handling 54 suits against companies it has accused of practicing racial discrimination. These include American Cast Iron and Pipe, Seaboard Airlines, United States Steel, Southwestern Telephone, National Cash Register, American Bakery Company and J. P. Stevens, textiles.

Also, Kaiser Aluminum, American Marine Corporation, Philip Morris, The Great Atlantic & Pacific Tea Company, Newport News Shipbuilding and Drydock, United States Pipe and Foundry, Sears Roebuck, Monsanto and General Motors.

Chemical and Atomic Workers International.

"The problem of seniority," Mr. Greenberg said, "is how to unravel threads of discrimination which existed for years. Separate seniority lines are a clear violation of the act, but in many cases it is not clear what is the best way that segregated seniority lines can be merged or connected without destroying the seniority system."

The fund, founded in 1939 by the National Association for the Advancement of Colored People, is now a separate organization. Its headquarters are at 10 Columbus Circle.

tion are under way.

CRA-Suits-Emp

Rights Suit Dismissal Bid Denied

7-7-67

A motion to dismiss a civil rights suit brought by four Halifax County Negroes against the Halifax local union of the United Papermakers and Paperworkers, AFL-CIO, has been denied in U. S. Eastern District Court here.

At the same time, Judge John D. Larkins Jr. refused to drop discrimination charges against the Albemarle Paper Co. at Roanoke Rapids. He also ruled that the international union was not liable for the local union's practices.

The suit was filed in August of 1966 by Joseph Moody, Theodore Daniels, Henry Hill and Arthur Mitchell who claimed that the paper company, the international union and the Halifax local engaged in discriminatory employment practices.

The Negroes sought an injunction against the company and the unions which they contended discriminated against employes on the basis of race and color.

Judge Larkins said in denying the motion to dismiss charges against the Halifax local, "The contention that the local is the agent of the international unit is without merit, the records indicating that the local is merely affiliated with the international and enjoys an autonomous existence.

"This is insufficient to establish responsibility of the international for any alleged unlawful conduct on the part of the local," Judge Larkins said.

Is Charged With Bias

7/19/68

Three Negro employes of the Federal Paper Board Co., Inc., have charged in federal District Court here that racially discriminatory practices by a paperworkers union are depriving them of equal job opportunities.

Named as defendants in the suit, filed late Wednesday, were the United Papermaker and Paperworkers Union (AFL-CIO), the union's regional director, and Richmond Locals 548 and 528, which represent employes at Federal Paper Board.

According to the suit, Local 528 represents Negroes who allegedly are assigned to lower paying jobs while Local 548, predominantly white, represents employes with higher paying jobs.

The plaintiffs — Ernest Smith, Willie W. Simpson and Christian Booker Jr., all of Richmond — contend that the failure of the union to eliminate the dual Richmond locals deprives them of equal employment opportunities.

According to the suit, the paperworkers union and Local 548 have repeatedly resisted efforts by the Negroes to eliminate the dual unions.

The Negro plaintiffs are seeking an injunction that would restrain the union from maintaining racially segregated locals.

Musicians Depart

Workers Vote Against Union

LABOR - N.C.

PISGAH FOREST (AP) — An incomplete vote count Thursday indicated that Olin-Mathieson paper products plant workers at Pisgah Forest decided against union representation by a one-vote margin.

5-18-69

The two-day vote was completed Thursday with a tally of 910 votes against and 909 in favor of designating the United Papermakers and Paperworkers, AFL-CIO, as bargaining agent, according to Hollis Hales, southern regional representative for the union.

He said 23 votes were challenged and eight were voided.

The challenged votes will be investigated by the National Labor Relations Board. An official tally may not be available for from three to six weeks, Hales said.

About 1,965 hourly paid workers were eligible to vote.

CRA-Suits-Emp.

NAACP Files Job Bias Charges

By George Lardner Jr.
Washington Post Staff Writer

he NAACP demanded yes-lay that Federal protection given to Negro workers accused two Mississippi nts of consigning them to riminatory jobs and wages years.

ix of the workers filed com-ints with the Equal Employ-nt Opportunities Commis-n against the Natchez Mill the International Paper Co., the Natchez plant of the Johns Manville Corp., and the AFL-CIO unions at the two plants.

Herbert Hill, national labor director for the NAACP, charged that "an atmosphere of intimidation and violence" makes it necessary for the Justice Department to see to the men's safety, particularly at the International Paper Co. plant.

The NAACP submitted similar complaints involving the plant and the unions there three years ago, Hill said, but "almost no change has occurred."

Negroes, he said, are required to join a segregated local of the Pulp, Sulphite and Paper Mill Workers. Union agreements with the mill, Hill asserted, still call for separate seniority lists that keep Negroes in low-paying jobs.

Other unions named in the five complaints involving the International Paper Co. are the United Papermakers and Paperworkers and the International Brotherhood of Electrical Workers. Both of these, Hill said, exclude Negroes.

The complaint against the Johns Manville plant cited that company and the International Union of Woodworkers on a charge of maintaining discriminatory seniority and promotion policies.

Six Natchez Negroes' Request For Federal Protection Denied

CRA-Suits-Emp.

Medill News Service

WASHINGTON — The Justice Department has dismissed a request from the NAACP that it provide protection for six Negro Mississippians who accused two companies of discriminatory job and wage practices. DD-T

Herbert Hill, national labor director for the NAACP, requested federal protection because "an atmosphere of intimidation and violence" threatens the men's safety. 6-5-68

Citing lack of jurisdiction, Justice Department officials said "we're simply not in the business of protecting private citizens. If we did that, we'd have to maintain a standing army of gigantic proportions."

The six Negroes have filed complaints with the Equal Employment Opportunities Commission against the Natchez Mill of the International Paper Co., the Natchez plant of the Johns-Manville Corp., and the AFL-CIO unions at the two plants.

They charged that Negroes are required to join a segregated local of the Pulp, Sulphite an Paper Mill Workers. Other unions named in the complaint are Paperworkers, and the International Brotherhood of Electrical Workers. The complaint says the unions exclude Negroes.

CRA-VII

Bowaters Wins Battle To Keep Records Secret

5-6-69 Chattanooga Times

By WYNOLA ROBISON

U.S. Dist. Judge Frank W. Wilson set aside an Equal Employment Opportunity Commission's demand for access to records of Bowaters Southern Paper Corp. Monday and held the commission's "discrimination" charges against the newsprint manufacturer "legally insufficient."

Judge Wilson's ruling was in a 12-page opinion on a suit by Bowaters against the Equal Employment Opportunity Commission and a cross-petition seeking enforcement of the commission's "demand" for personnel records.

A commission charged July 19, 1967, that he had "reasonable cause to believe" Bowaters was engaged in unlawful employment practices by maintenance of racially restricted job classifications, discriminatory use of tests, and denial to Negro employes of opportunity to participate in apprenticeship and on-the-job training programs.

Bowaters, denying the allegations, requested further information as to the details of the alleged violations, and declined to furnish all records to the commissioner. This brought a commission "Demand for Access to Evidence."

"The charge being legally insufficient to invoke the investigative jurisdiction of the commission, the demand must be set aside," Judge Wilson wrote.

"One sure and certain legislative fact stands out," Judge Wilson wrote, and that is when a charge is filed by a commissioner it must "set forth the facts upon which it is based."

He held that the charge against Bowaters failed to set forth the facts upon which it is based.

"Admittedly a line cannot be clearly drawn delineating and distinguishing a charge from an allegation," he said.

He concluded, however, that it is reasonable to assume "that when Congress stated that the charge should set forth the facts on which it was based, it intended the commissioners to do just that."

Judge Wilson added that this does not necessarily mean that the identity of any informant must be disclosed, no does it mean that the charges must necessarily be limited to the facts set forth in the charge.

It does mean that a commissioner must show on the face of the charge that he was in possession of information which he believed to have some basis of fact and which therefore formed the basis for his initiat-

See Page Eight, Column Seven

Continued on next page

MRS. RODNEY CLAUDE HA

In case you have not seen this Bowaters piece in Chattanooga, like to read it, I attach it here, thinking you might

BOWATERS WINS BATTLE IN COURT

From Page Three

ing the charge, the district judge wrote.

"By requiring that a commissioner's charge set forth the facts on which it was based," Judge Wilson continued, "it was apparent that Congress did not intend to authorize commission investigations based on nothing more than official suspicion or curiosity."

He said in this case the commissioner merely charged Bowaters with three general types of discriminatory practices — discrimination in job classification, in the use of tests and in the apprenticeship and on-the-job training programs.

"As to what facts the commissioner may have had as a basis for making these charges, there is not a word in the charge," Judge Wilson continued.

He concluded that the commission was "without jurisdiction to initiate the investigation here undertaken because of the failure of the commissioner's charge to state any facts on which it was based."

Bowaters employes approximately 1,250 at its newsprint plant at Calhoun, Tenn.

Plot Uncovered

Labor - Tenn

6 STATE PLANTS HIT BY STRIKES

Chattanooga Times

Container Employes and 5 Chemical Workers on Walkout List

8-1-69

By the Associated Press

See list of major paper companies

Two new strikes were reported Wednesday in East Tennessee, as walkouts continued in at least six other manufacturing plants in Middle and East Tennessee.

The latest walkouts involved 100 members of Local 394, International Printing Pressmen's Association, at the corrugated division of the Container Corp. of America in Chattanooga, and 75 chemical workers, who left their jobs at American Zinc Co.'s mine at Mascot.

A company official in Chattanooga said the container plant walkout arose over disciplinary action of an employe. Union officers declined comment.

At Mascot, local president George Edelmen of the International Chemical Workers Association, termed that walkout a "wildcat strike" and said the union was seeking the return of the men. The walkout involved a job classification dispute.

Continuing were strikes at:

—AVCO Aerospace plant in Nashville, where 3,500 union machinists are holding out for a wage increase.

—The Gates Rubber Plant in Nashville, where 400 United Rubber Workers are involved in a contract dispute

—The Altamil Co. aircraft part plant in Tullahoma, where 300 union steelworkers have been on strike since contract negotiations collapsed June 22.

—The Lockheed-Georgia plant at Shelbyville, where 120 members of the machinist-aerospace union are picketing in a contract dispute.

Lockheed-Georgia officials issued a statement late Wednesday, saying the plant had been shut down indefinitely because of the strike.

—The American Electric Co. plant at Murfreesboro, where 125 workers walked out complaining of unfair labor practices in the discharge of two firemen.

—The Kayser-Roth Hosiery Mill, Dayton, where 500 members of the Textile Workers of America have been on strike since May 6 in a contract-bargaining dispute which has been marked by violence. Production ceased June 25.

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1969 Bin

THE ATLANTA URBAN EMPLOYMENT SURVEY

JULY 1968–JUNE 1969

UNEMPLOYMENT
10.0%–1.4%

SCHOOL ATTAINMENT
9.3 years–12.6 years

LABOR FORCE PARTICIPATION
85%–40%

FAMILY INCOME
$4,700–$9,000

MEDIAN EARNINGS
$52.00–$150.00

526-5~~25~~ 5018

526-5418

U.S. DEPARTMENT OF LABOR
BUREAU OF LABOR STATISTICS
SUITE 540, 1371 PEACHTREE STREET NE.
ATLANTA, GEORGIA 30309

THE ATLANTA URBAN EMPLOYMENT SURVEY

JULY 1968–JUNE 1969

UNITED STATES DEPARTMENT OF LABOR
George P. Shultz, Secretary

BUREAU OF LABOR STATISTICS
Geoffrey H. Moore, Commissioner

SOUTHEASTERN REGIONAL OFFICE
Brunswick A. Bagdon, Director

December 1969

In November 1966, the Bureau of Labor Statistics undertook a series of one-time experimental surveys aimed at providing detailed information concerning labor force status, employment problems, educational attainment and training needs, income, earnings, and related information of poor people in selected urban areas.

The present Atlanta Urban Employment Survey is an outgrowth of that work. Concentrated Employment Program target areas in Atlanta, along with those in Chicago, Detroit, Houston, Los Angeles and New York, were selected for in-depth interviews with a sample of area residents to determine present problems associated with achieving successful employment. Similar surveys are being conducted in the remainder of the Cities of Atlanta and Detroit. The surveys are funded by the Manpower Administration and the data collected by the Bureau of the Census. The material that follows represents the initial findings of the household interviews in the CEP Area and the rest of the City of Atlanta during the period July 1968-June 1969. Additional and more detailed reports dealing with various aspects of the survey are planned for future release.

Brunswick A. Bagdon
Regional Director

In a period of prolonged high economic activity some residents of the City of Atlanta are experiencing serious employment problems. This is especially true for people living in that part of the City designated as the Concentrated Employment Program (CEP) target area. 1/ During the 12 months ending June 1969, unemployment among CEP residents averaged 8.6 percent as compared to an average of 5.2 percent for the City of Atlanta. Moreover, nearly one of every four workers residing in the CEP Area was unemployed at some time during this period, as compared to one in six for the City.

The initial findings of a 12-month's survey of the City of Atlanta, spanning the period July 1968 through June 1969 indicate that:

-------The median annual income of CEP Area families was $4,900 as compared to $7,600 for all families in the City and $8,600 for the United States.

1/ Concentrated Employment Program Areas refer to target areas in which the U. S. Department of Labor has combined separate manpower programs in order to concentrate the impact of these programs.

-------Median weekly earnings of CEP Area residents working full time were $81.00 as compared to $106.00 for Atlanta.

-------In the CEP Area full-time Negro workers had median weekly earnings of $77.00, more than 20 percent below the $98.00 median for white workers.

-------More than one-sixth of the adult men in the CEP Area worked as laborers and more than one-fourth of the women were domestics in private homes.

These are some of the major findings of the Urban Employment Survey in Atlanta--a comprehensive study of residents based on household interviews conducted during the 12-month period ending with June 1969. The primary focus of the survey is the Concentrated Employment Program target area of Atlanta. The CEP Area lies roughly within a 2½-mile arc around downtown Atlanta on the west and south sides. Residents of the CEP Area have more employment problems and lower incomes than residents in the City as a whole. The Urban Employment Survey (UES) is designed to identify and measure these and other social and economic problems of CEP Area residents.

Begun in the summer of 1968, the UES is a continuing survey directed by the Bureau of Labor Statistics with the cooperation and financing of the Manpower Administration. The Bureau of the Census is collecting the information. In addition to Atlanta, similar surveys are underway in the CEP Areas

of Chicago, Detroit, Houston, Los Angeles, and New York. Atlanta and Detroit were selected for parallel surveys of the remainder of the City not included in the CEP Area.

The population of Atlanta's CEP Area is predominantly Negro. Of the approximately 60,000 persons 16 years of age and older living there, 46,300 are Negro and 13,800 are white. This population is, then, about 77 percent Negro as compared to a ratio of 44 percent Negro for the City.

Nearly two-thirds (64 percent) of the surveyed residents in the CEP Area were in the labor force, that is, working or seeking work. Of those not in the labor force, 21,700, more than half were keeping house and nearly one-fifth were unable to work.

Annual money incomes were sharply lower in the CEP Area than in the City as a whole. They were also lower for Negroes than for whites. Nearly one-third of the families of 2 or more members in the CEP Area had annual incomes of less than $3,500 as compared to about one-sixth of the families in Atlanta. More than half (54 percent) of the target area Negro families had incomes of under $5,000. For white families the ratio was 39 percent.

Educational attainment was found to be low in the CEP Area. Median years of school completed by men 25 years of age and over in the target area were 9.4 years; in sharp contrast to the 12.2 years found for the City. The median for the CEP Area women was 10.2 years, two years fewer than the median for women in Atlanta.

This Atlanta release is being issued simultaneously with releases for CEP areas of Chicago, Detroit, Houston, Los Angeles, and New York and a combined report covering all six areas. More detailed information concerning work experience, reasons for nonparticipation in the labor force, earnings, education and related data will be available in reports now in preparation. Copies of all releases and reports may be secured from the Southeastern Regional Office of the Bureau of Labor Statistics.

CITY OF ATLANTA BY CENSUS TRACTS

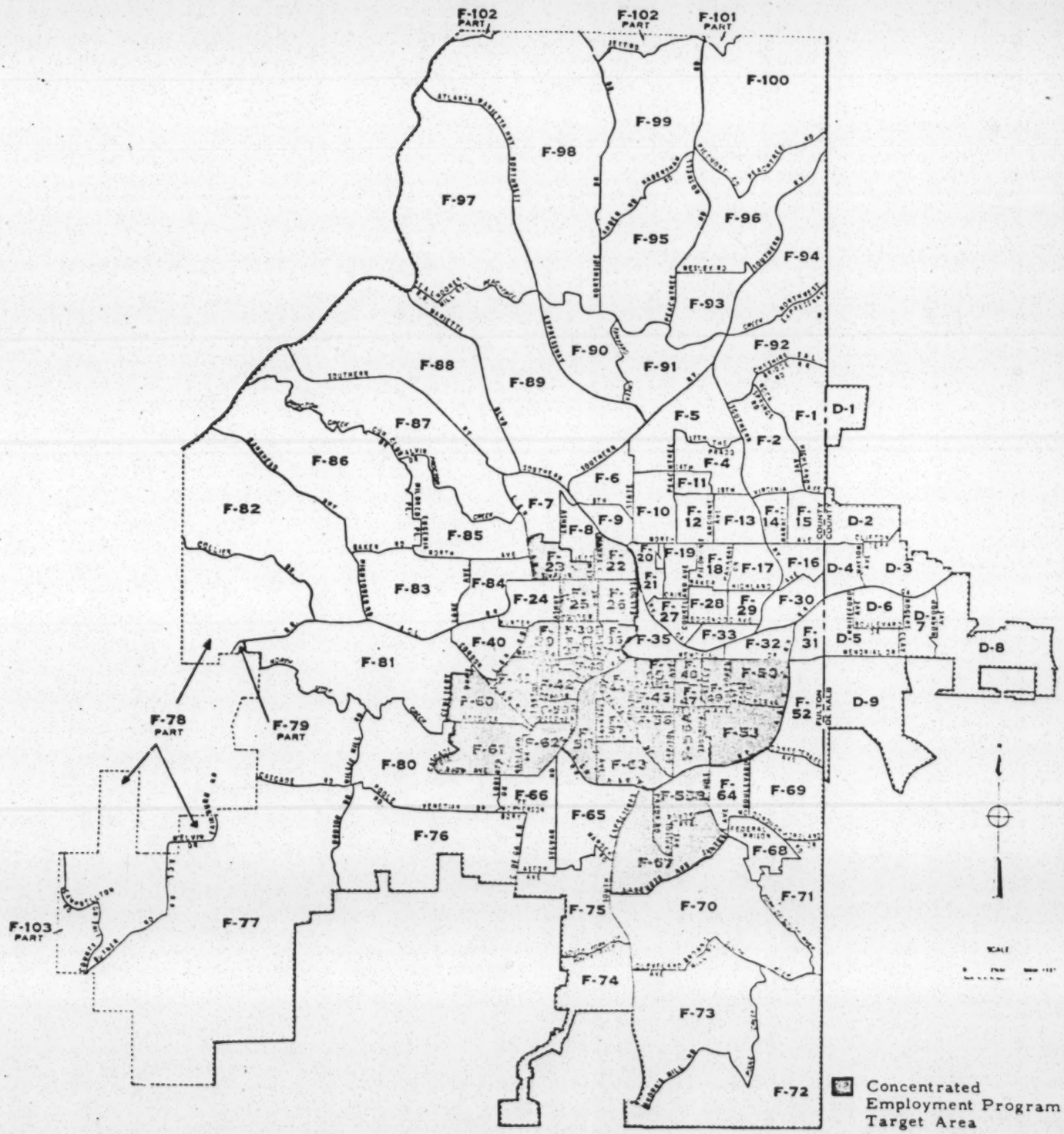

Table 1. Employment Status of Persons in CEP Area and City of Atlanta by Age, Sex, and Race, July 1968 - June 1969

Employment Status	CEP Area		
	Total	Negro	White
BOTH SEXES, 16 YEARS AND OVER			
Civilian noninstitutional population.....	60,100	46,300	13,800
Civilian labor force.....	38,300	30,700	7,600
Civ. labor force participation rate.	63.7%	66.3%	55.1%
Employed.....	35,100	27,800	7,200
Unemployed.....	3,300	2,900	400
Unemployment rate.....	8.6%	9.4%	5.3%
Not in the labor force.....	21,700	15,600	6,100
In school.....	1,900	1,600	200
Keeping house.....	11,800	8,000	3,800
Unable to work.....	4,000	3,300	700
Other.....	4,100	2,700	1,400
BOTH SEXES, 16-19 YEARS			
Civilian noninstitutional population.....	6,800	5,600	1,200
Civilian labor force.....	4,200	3,400	1/
Civ. labor force participation rate.	61.8%	60.7%	-
Employed.....	3,000	2,400	-
Unemployed.....	1,200	1,000	-
Unemployment rate.....	28.6%	29.4%	-
Not in the labor force.....	2,700	2,200	-
MEN, 20 YEARS AND OVER			
Civilian noninstitutional population.....	21,700	16,400	5,300
Civilian labor force.....	17,300	13,400	3,900
Civ. labor force participation rate.	79.7%	81.7%	73.6%
Employed.....	16,800	12,900	3,800
Unemployed.....	500	400	100
Unemployment rate.....	2.9%	3.0%	2.6%
Not in the labor force.....	4,400	3,100	1,300
WOMEN, 20 YEARS AND OVER			
Civilian noninstitutional population.....	31,600	24,300	7,300
Civilian labor force.....	16,900	14,000	2,900
Civ. labor force participation rate.	53.5%	57.6%	39.7%
Employed.....	15,300	12,500	2,700
Unemployed.....	1,600	1,400	200
Unemployment rate.....	9.5%	10.0%	6.9%
Not in the labor force.....	14,700	10,300	4,400

1/ Data not shown when the base of the percentage is at or below 1,000 in the CEP Area and 2,000 in the City.

Table 1. Employment Status of Persons in CEP Area and City of Atlanta by Age, Sex, and Race, July 1968 - June 1969--Continued

Employment Status	City of Atlanta		
	Total	Negro	White
BOTH SEXES, 16 YEARS AND OVER			
Civilian noninstitutional population.....	310,700	135,700	175,000
Civilian labor force.....	206,200	96,000	110,200
Civ. labor force participation rate.	66.4%	70.7%	63.0%
Employed.....	195,400	89,000	106,300
Unemployed.....	10,800	7,000	3,800
Unemployment rate.....	5.2%	7.3%	3.4%
Not in the labor force.....	104,500	39,700	64,800
In school.....	12,400	4,800	7,700
Keeping house.....	59,000	20,600	38,300
Unable to work.....	11,400	7,400	4,000
Other.....	21,700	6,900	14,900
BOTH SEXES, 16-19 YEARS			
Civilian noninstitutional population.....	32,600	16,100	16,600
Civilian labor force.....	18,600	9,700	8,900
Civ. labor force participation rate.	57.1%	60.2%	53.6%
Employed.....	13,900	6,600	7,300
Unemployed.....	4,700	3,100	1,600
Unemployment rate.....	25.3%	32.0%	18.0%
Not in the labor force.....	14,000	6,400	7,600
MEN, 20 YEARS AND OVER			
Civilian noninstitutional population.....	119,000	50,200	68,800
Civilian labor force.....	99,900	42,400	57,400
Civ. labor force participation rate.	83.9%	84.5%	83.4%
Employed.....	98,200	41,600	56,700
Unemployed.....	1,600	800	800
Unemployment rate.....	1.6%	1.9%	1.4%
Not in the labor force.....	19,200	7,800	11,400
WOMEN, 20 YEARS AND OVER			
Civilian noninstitional population.....	159,100	69,400	89,700
Civilian labor force.....	87,700	43,900	43,800
Civ. labor force participation rate.	55.1%	63.3%	48.8%
Employed.....	83,200	40,900	42,300
Unemployed.....	4,500	3,000	1,500
Unemployment rate.....	5.1%	6.8%	3.4%
Not in the labor force.....	71,400	25,500	45,900

Table 2. Occupational Distribution of the Employed in the CEP Area and the City of Atlanta by Sex and Race, Workers 20 Years of Age and Older, July 1968 - June 1969

	CEP Area			City of Atlanta		
	Total	Negro	White	Total	Negro	White
MALES, 20 YEARS AND OVER						
Number	16,800	12,900	3,800	98,200	41,600	56,700
Percent	100.0	100.0	100.0	100.0	100.0	100.0
White Collar	18.2	15.5	27.1	43.3	22.2	58.8
Professional and Technical	3.7	3.5	4.4	12.4	6.3	17.0
Clerical	8.5	8.4	8.9	9.5	10.7	8.7
Managers, Officials & Proprietors	4.0	2.5	9.2	14.9	3.5	23.3
Sales	1.9	1.1	4.6	6.4	1.8	9.8
Blue Collar	68.0	68.4	66.7	47.9	63.5	36.5
Craftsmen and Foremen	18.0	13.8	32.0	17.4	13.4	20.3
Operatives	32.6	34.4	26.7	21.9	33.2	13.7
Nonfarm Laborers	17.4	20.1	8.0	8.6	16.9	2.5
Service Workers	13.7	16.1	5.7	8.6	14.2	4.5
Household	0.1	0.1	.0	.0	.0	.0
Other Service Workers	13.6	15.9	5.7	8.6	14.2	4.5
Not included elsewhere	.0	0.1	0.4	0.1	.0	0.2

Table 2. Occupational Distribution of the Employed in the CEP Area and the City of Atlanta by Sex and Race, Workers 20 Years of Age and Older, July 1968 - June 1969--Continued

	CEP Area			City of Atlanta		
	Total	Negro	White	Total	Negro	White
FEMALES, 20 YEARS AND OVER						
Number	15,300	12,500	2,700	83,200	40,900	42,300
Percent	100.0	100.0	100.0	100.0	100.0	100.0
White Collar	25.6	20.0	51.2	55.6	32.4	78.0
Professional and Technical	6.5	6.0	9.0	14.7	12.0	17.3
Clerical	15.0	11.6	30.8	32.2	17.0	46.9
Managers, Officials & Proprietors	1.6	1.0	4.5	3.6	1.5	5.7
Sales	2.4	1.5	6.8	5.1	2.0	8.0
Blue Collar	18.4	16.5	27.0	14.1	17.7	10.5
Craftsmen and Foremen	1.2	0.9	2.3	1.6	1.5	1.6
Operatives	16.3	14.5	24.6	11.5	14.6	8.6
Nonfarm Laborers	1.0	1.2	.0	1.0	1.6	0.4
Service Workers	56.0	63.5	21.8	30.3	49.8	11.5
Household	27.5	32.5	4.5	12.5	24.2	1.2
Other Service Workers	28.5	30.9	17.4	17.8	25.6	10.3
Not included elsewhere	.0	.0	.0	.0	.0	.0

Table 3. Extent of Unemployment During Previous 12 Months--
CEP Area and City of Atlanta by Age, Sex, and Color
July 1968 - June 1969

	CEP Area			City of Atlanta		
	Total	Negro	White	Total	Negro	White
BOTH SEXES, 16 YEARS AND OVER						
Total working or looking for work..	43,300	34,700	8,600	232,000	106,400	125,700
Percent with unemployment.....	22.9	24.2	17.4	16.8	22.1	12.3
Total with unemployment:						
Number.....	9,900	8,400	1,500	38,900	23,500	15,400
Percent.....	100.0	100.0	100.0	100.0	100.0	100.0
1-4 weeks.....	55.0	54.1	60.0	59.3	55.5	65.0
5-14 weeks.....	28.0	28.2	26.7	26.0	29.7	20.8
15-26 weeks.....	11.1	10.6	13.3	9.0	8.9	9.1
27-or-more weeks.....	6.0	7.1	.0	5.7	5.9	5.2
BOTH SEXES, 16-19 YEARS						
Total working or looking for work..	5,500	4,500	1/	26,600	13,000	13,600
Percent with unemployment.....	50.9	51.1	-	43.6	55.4	32.4
Total with unemployment:						
Number.....	2,800	2,300	-	11,600	7,200	4,400
Percent.....	100.0	100.0	-	100.0	100.0	100.0
1-4 weeks.....	67.9	62.5	-	68.1	62.5	77.3
5-14 weeks.....	21.4	25.0	-	20.6	25.0	13.6
15-26 weeks.....	7.1	8.3	-	7.0	6.9	6.8
27-or-more weeks.....	3.6	4.2	-	4.3	5.6	2.3

1/ Data not shown when the base of the percentage is at or below 1,000 in the CEP Area and 2,000 in the City.

Table 3. Extent of Unemployment During Previous 12 Months--
CEP Area and City of Atlanta by Age, Sex, and Color
July 1968 - June 1969--Continued

	CEP Area			City of Atlanta		
	Total	Negro	White	Total	Negro	White
MEN, 20 YEARS AND OVER						
Total working or looking for work..	18,100	13,900	4,200	104,100	43,800	60,300
Percent with unemployment.....	14.9	15.8	11.9	10.6	13.7	8.3
Total with unemployment:						
Number.....	2,700	2,200	1/	11,000	6,000	5,000
Percent.....	100.0	100.0	-	100.0	100.0	100.0
1-4 weeks.....	44.4	45.5	-	50.0	50.8	52.0
5-14 weeks.....	33.3	31.8	-	30.9	33.9	28.0
15-26 weeks.....	14.8	13.6	-	12.7	10.2	14.0
27-or-more weeks.....	7.4	9.0	-	6.4	5.1	6.0
WOMEN, 20 YEARS AND OVER						
Total working or looking for work..	19,700	16,200	3,400	101,300	49,600	51,700
Percent with unemployment.....	22.3	24.1	17.6	16.1	20.8	11.6
Total with unemployment:						
Number.....	4,400	3,900	1/	16,300	10,300	6,000
Percent.....	100.0	100.0	-	100.0	100.0	100.0
1-4 weeks.....	54.5	54.1	-	58.9	54.4	66.7
5-14 weeks.....	29.5	29.7	-	26.4	30.1	20.0
15-26 weeks.....	11.4	10.8	-	8.6	8.7	8.3
27-or-more weeks.....	4.5	5.4	-	6.1	6.8	5.0

1/ Data not shown when the base of the percentage is at or below 1,000 in the CEP Area and 2,000 in the City.

Table 4. Weekly Earnings for Persons 16 Years and Over in CEP Area and City of Atlanta by Sex and Race, July 1968 - June 1969

(Percent distribution)

Weekly Earnings	CEP Area			City of Atlanta		
	Both Sexes	Male	Female	Both Sexes	Male	Female
ALL PERSONS WITH EARNINGS						
Number	32,900	17,300	15,600	181,700	98,300	83,400
Percent	100.0	100.0	100.0	100.0	100.0	100.0
$ 0-49	28.2	12.8	43.5	17.7	8.9	27.1
$50-64	14.4	9.4	19.7	9.7	5.3	14.6
$65-74	11.1	10.7	11.6	7.8	5.6	10.0
$75-99	20.5	26.2	15.0	18.5	16.8	20.4
$100-149	18.1	28.2	7.5	25.2	30.1	19.8
$150 or more	7.7	12.8	2.7	21.1	33.2	8.1
Median Weekly Earnings	$72.00	$91.00	$55.00	$94.00	$120.00	$73.00
ALL PERSONS WORKING FULL TIME						
Number	23,700	13,500	10,200	141,600	81,800	59,800
Percent	100.0	100.0	100.0	100.0	100.0	100.0
$ 0-49	12.8	3.4	24.0	7.5	3.2	12.7
$50-64	16.1	8.5	26.0	9.6	4.4	16.1
$65-74	13.3	11.1	15.6	8.2	5.0	12.2
$75-99	25.1	29.9	19.8	20.6	17.4	24.7
$100-149	22.7	31.6	11.5	29.4	32.8	25.1
$150 or more	10.0	15.4	3.1	24.7	37.2	9.2
Median Weekly Earnings	$81.00	$97.00	$64.00	$106.00	$129.00	$82.00

Table 4. Weekly Earnings for Persons 16 Years and Over in CEP Area and City of Atlanta by Sex and Race, July 1968 - June 1969--Continued

(Percent distribution)

Weekly Earnings	CEP Area			City of Atlanta		
	Both Sexes	Male	Female	Both Sexes	Male	Female
NEGROES WITH EARNINGS						
Number	26,100	13,300	12,800	82,300	41,900	40,400
Percent	100.0	100.0	100.0	100.0	100.0	100.0
$ 0-49	30.2	12.7	47.1	23.3	10.1	36.0
$50-64	16.0	10.2	21.5	14.7	7.9	21.4
$65-74	11.8	12.7	10.7	10.8	9.6	12.2
$75-99	20.2	28.8	11.6	19.7	24.3	15.1
$100-149	16.4	26.3	6.6	20.2	31.4	9.3
$150 or more	5.5	9.3	2.5	11.3	16.7	6.1
Median Weekly Earnings	$68.00	$85.00	$52.00	$76.00	$97.00	$61.00
NEGROES WORKING FULL TIME						
Number	18,500	10,400	8,100	62,400	33,900	28,400
Percent	100.0	100.0	100.0	100.0	100.0	100.0
$ 0-49	13.9	2.2	27.6	10.9	3.4	19.2
$50-64	18.7	9.9	28.9	16.2	7.4	26.0
$65-74	14.5	13.2	15.8	11.9	8.7	15.5
$75-99	25.3	33.0	17.1	23.2	26.2	19.6
$100-149	20.5	30.8	7.9	24.4	35.2	12.5
$150 or more	7.2	11.0	2.6	13.4	19.1	7.2
Median Weekly Earnings	$77.00	$92.00	$61.00	$85.00	$105.00	$67.00

Table 4. Weekly Earnings for Persons 16 Years and Over in CEP Area and City of Atlanta by Sex and Race, July 1968 - June 1969--Continued

(Percent distribution)

Weekly Earnings	CEP Area			City of Atlanta		
	Both Sexes	Male	Female	Both Sexes	Male	Female
WHITES WITH EARNINGS						
Number	6,800	4,000	2,800	99,400	56,400	43,000
Percent	100.0	100.0	100.0	100.0	100.0	100.0
$ 0-49	20.3	12.5	28.0	12.6	7.9	17.9
$50-64	8.5	6.3	12.0	4.9	3.0	7.4
$65-74	8.5	6.3	12.0	4.9	2.5	8.0
$75-99	22.0	15.6	28.0	17.3	10.4	25.8
$100-149	25.4	34.4	16.0	29.9	28.9	30.8
$150 or more	15.3	25.0	4.0	30.4	47.2	10.2
Median Weekly Earnings	$88.00	$118.00	$75.00	$115.00	$145.00	$90.00
WHITES WORKING FULL TIME						
Number	5,100	3,100	2,100	79,300	47,900	31,400
Percent	100.0	100.0	100.0	100.0	100.0	100.0
$ 0-49	8.7	4.0	15.0	4.4	3.3	5.9
$50-64	6.5	-	15.0	3.8	2.2	6.3
$65-74	8.7	4.0	15.0	5.0	2.2	8.9
$75-99	26.1	20.0	35.0	18.4	10.1	29.6
$100-149	30.4	40.0	15.0	33.7	30.5	37.8
$150 or more	19.6	32.0	5.0	34.6	51.8	11.5
Median Weekly Earnings	$98.00	$130.00	$77.00	$125.00	$150.00	$98.00

Table 5. Annual Money Income of Families and Individuals Living Alone in CEP Area and City of Atlanta, July 1968 - June 1969

(Percent distribution)

Money Income	CEP Area			City of Atlanta		
	Total	Negro	White	Total	Negro	White
FAMILIES (2 OR MORE MEMBERS)						
Number	22,200	17,400	5,000	111,400	50,200	61,300
Percent	100.0	100.0	100.0	100.0	100.0	100.0
0-$3,499	31.7	33.3	22.4	16.9	24.1	11.6
$3,500 - 4,999	19.2	20.7	16.3	12.5	16.8	8.6
$5,000 - 7,999	26.8	26.4	26.5	24.3	27.7	21.4
$8,000 - 9,999	10.7	10.3	14.3	14.3	12.6	15.3
$10,000 or more	11.6	9.2	20.4	32.0	18.8	43.1
Median Income	$4,900	$4,700	$6,200	$7,600	$5,900	$9,000
UNRELATED INDIVIDUALS						
Number	9,800	7,200	2,500	54,700	19,200	35,500
Percent	100.0	100.0	100.0	100.0	100.0	100.0
0 - $1,999	49.0	49.2	48.0	33.5	42.7	28.6
$2,000 - 3,499	25.0	25.4	24.0	18.6	26.0	14.3
$3,500 - 4,999	12.5	12.7	12.0	15.5	15.1	15.6
$5,000 - 7,999	10.4	9.9	16.0	20.7	11.5	25.5
$8,000 or more	3.1	2.8	-	11.7	4.7	16.0
Median Income	$2,100	$2,100	$2,100	$3,300	$2,400	$4,200

Table 6. Educational Attainment of Workers in CEP Area and City of Atlanta by Age, Sex, and Race, July 1968 - June 1969

(Percent distribution)

Years of School Completed	Both Sexes 18 years and over		Men, 25 years and over		Women, 25 years and over	
	CEP Area	City	CEP Area	City	CEP Area	City
All persons: Number.....	36,600	199,000	14,400	86,100	14,100	70,100
Percent.....	100.0	100.0	100.0	100.0	100.0	100.0
No school years completed.....	0.8	0.6	1.4	1.0	0.7	0.4
Elementary:						
1 - 7 years.....	26.2	14.3	35.4	19.5	29.6	15.0
8 years.....	7.9	5.3	9.0	6.1	7.7	5.7
High school:						
1 - 3 years.....	30.3	20.4	27.8	19.0	28.9	21.9
4 years.....	25.1	33.0	17.4	24.5	23.9	33.4
College:						
1 - 3 years.....	5.5	12.5	4.9	11.5	4.9	10.7
4 years or more.....	4.1	13.9	4.2	18.3	4.2	12.9
Median years of school completed	10.5	12.3	9.4	12.2	10.2	12.2
Negro: Number.....	29,400	92,000	11,000	35,600	11,500	36,100
Percent.....	100.0	100.0	100.0	100.0	100.0	100.0
No school years completed.....	0.7	1.1	1.8	2.3	0.9	0.6
Elementary:						
1 - 7 years.....	27.4	21.3	37.5	30.4	31.6	22.8
8 years.....	6.8	6.1	8.0	6.8	7.0	7.2
High school:						
1 - 3 years.....	30.8	25.3	27.7	23.4	28.9	26.4
4 years.....	24.7	29.8	15.2	23.1	22.8	24.2
College:						
1 - 3 years.....	5.5	8.0	4.5	6.5	5.3	7.5
4 years or more.....	4.1	8.4	5.4	7.6	3.5	11.4
Median years of school completed	10.5	11.5	9.3	10.4	10.1	11.2

Table 6. Educational Attainment of Workers in CEP Area and City of Atlanta by Age, Sex, and Race, July 1968 - June 1969--Continued

(Percent distribution)

Years of School Completed	Both Sexes 18 years and over		Men, 25 years and over		Women, 25 years and over	
	CEP Area	City	CEP Area	City	CEP Area	City
Whites: Number	7,200	107,000	3,400	50,500	2,600	34,000
Percent	100.0	100.0	100.0	100.0	100.0	100.0
No school years completed	.0	0.2	.0	0.2	.0	0.3
Elementary:						
1 - 7 years	22.2	8.2	27.3	11.9	19.2	6.8
8 years	12.5	4.6	12.1	5.8	11.5	4.1
High school:						
1 - 3 years	29.2	16.3	27.3	15.9	30.8	17.1
4 years	26.4	35.8	21.2	25.6	30.8	43.2
College:						
1 - 3 years	5.6	16.3	6.1	15.1	3.8	14.1
4 years or more	4.2	18.6	6.1	25.6	3.8	14.4
Median years of school completed	10.6	12.6	10.2	12.6	10.9	12.5

TABLE 7. Distribution of Employed Persons by Industry, Color, and Sex, CEP Area and City of Atlanta, July 1968-June 1969

	CEP Area		City of Atlanta	
	Negro	White	Negro	White
Men 20 Yrs. of Age and Over				
Number	12,900	3,800	41,600	56,700
Percent	100.0	100.0	100.0	100.0
Wage and Salary Workers	96.5	91.5	96.3	89.7
Private	85.1	83.7	80.8	80.3
Agriculture	0.1	0.4	0.1	0.3
Mining	0.0	0.2	0.0	0.1
Construction	15.5	14.5	12.0	8.3
Manufacturing	23.1	24.7	25.8	20.5
Durable Goods	10.2	12.2	15.9	11.0
Nondurable Goods	12.9	12.5	9.8	9.5
Trans. and Public Utilities	9.7	12.0	8.5	10.7
Wholesale and Retail Trade	19.3	19.4	18.5	20.2
Finance, Insurance & Real Estate	2.8	2.8	2.3	7.3
Serv. Ind. (Incl. For. & Fish.)	14.7	9.7	13.6	12.9
Business and Repair	4.2	3.8	3.5	4.4
Private Households	1.2	0.2	1.9	0.1
Pers. Service not Pvt. Hslds.	3.9	2.5	3.1	1.8
Education	1.9	1.0	1.4	0.7
Medical and Hospital	0.8	0.2	1.2	0.6
All Other	2.7	1.9	2.6	5.3
Government	11.4	7.8	15.6	9.4
Self-employed	3.5	8.3	3.6	10.3
Unpaid Family Workers	0.1	0.2	0.0	0.1
Women 20 Yrs. of Age and Over				
Number	12,500	2,700	40,900	42,300
Percent	100.0	100.0	100.0	100.0
Wage and Salary Workers	98.3	95.2	98.1	94.9
Private	83.8	85.2	76.2	78.9
Agriculture	0.0	0.0	0.0	0.1
Mining	0.0	0.0	0.0	0.0
Construction	0.0	0.6	0.1	0.9
Manufacturing	9.1	26.8	10.3	14.3
Durable Goods	3.1	3.5	3.8	3.6
Nondurable Goods	6.0	23.2	6.5	10.7
Trans. and Public Utilities	1.6	3.0	2.7	7.0
Wholesale and Retail Trade	14.3	24.5	13.3	23.7
Finance, Insurance & Real Estate	3.0	6.0	4.2	11.2
Serv. Ind. (Incl. For. & Fish.)	55.8	24.4	45.7	21.7
Business and Repair	1.9	1.5	1.3	4.3
Private Households	33.2	4.5	25.0	1.6
Pers. Service not Pvt. Hslds.	11.0	5.3	8.9	3.3
Education	2.6	4.7	2.5	1.9
Medical and Hospital	5.1	4.1	5.8	7.1
All Other	2.0	4.4	2.3	3.4
Government	14.4	10.0	21.9	16.1
Self-employed	1.6	4.5	1.6	4.2
Unpaid Family Workers	0.1	0.3	0.3	0.9

TABLE 8. ANNUAL FAMILY INCOME BY MONTHLY FIXED EXPENSES (RENT, UTILITIES & DEBTS), CEP AREA
JULY 1968-JUNE 1969

	TOTAL FAMILIES	MONTHLY FIXED EXPENSES (RENT, UTILITIES & DEBTS)									
		LESS THAN $40.00	$40-59	$60-79	$80-99	$100-124	$125-149	$150-174	$175-224	$225-249	$250 and Over
NEGROES											
Family Income											
Total Families	22,800	3,400	2,500	3,100	2,400	2,800	1,500	1,200	1,900	1,200	1,500
Percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
$0-3,499	44.6	81.2	75.0	60.7	45.8	35.7	23.1	18.2	11.1	0.0	7.7
$3,500-$4,999	18.8	12.5	12.5	21.4	20.8	25.0	23.1	27.3	16.7	10.0	23.1
$5,000-$7,999	22.8	6.3	12.5	14.3	20.8	25.0	38.4	36.2	44.4	40.0	38.4
$8,000-$9,999	8.0	0.0	0.0	3.6	8.3	7.1	7.7	9.1	16.7	20.0	15.4
$10,000 & Over	5.8	0.0	0.0	0.0	4.2	7.1	7.7	9.1	11.1	30.0	15.4
Median Family Income . .	$ 3,900	$ 1,700	$ 2,300	$ 3,300	$ 3,700	$ 4,500	$ 5,700	$ 5,500	$ 6,000	$ 9,000	$ 6,700
WHITES											
Family Income											
Total Families	7,100	2,000	1/	1/	1/	1/	1/	1/	1/	1/	1/
Percent	100.0	100.0									
$0-$3,499	38.9	77.8									
$3,500-$4,999	13.9	5.6									
$5,000-$7,999	23.6	11.1									
$8,000-$9,999	9.7	0.0									
$10,000 & Over	13.7	5.5									
Median Family Income. .	$ 4,700	$ 2,500									

1/ Data not shown when the base of the percentage is at or below 1,000 in the CEP Area and 2,000 in the City.

TABLE 8. ANNUAL FAMILY INCOME BY MONTHLY FIXED EXPENSES (RENT, UTILITIES & DEBTS), CITY OF ATLANTA, JULY 1968-JUNE 1969 (Continued)

	TOTAL FAMILIES	MONTHLY FIXED EXPENSES (RENT, UTILITIES & DEBTS)									
		LESS THAN $40.00	$40-59	$60-79	$80-99	$100-124	$125-149	$150-174	$175-224	$225-249	$250 and Over
NEGROES											
Family Income											
Total Families	63,700	6,500	4,700	6,200	4,800	6,200	5,200	3,200	6,300	5,500	11,600
Percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
$0-$3,499	33.9	76.9	72.3	51.7	52.1	38.7	19.6	16.1	14.3	11.1	6.9
$3,500-$4,999	16.1	9.2	12.8	23.3	16.6	29.0	25.5	16.1	17.4	9.3	11.2
$5,000-$7,999	24.3	10.8	10.6	16.7	22.9	19.4	37.2	35.5	36.5	33.3	27.6
$8,000-$9,999	10.7	1.5	4.3	6.6	4.2	9.7	5.9	12.9	17.4	18.5	17.2
$10,000 & Over	15.0	1.5	0.0	1.7	4.2	3.2	11.8	19.4	14.3	27.8	37.1
Median Family Income . .	$ 5,000	$ 1,800	$ 2,400	$ 3,500	$ 3,400	$ 4,100	$ 5,100	$ 6,500	$ 6,200	$ 7,700	$ 8,500
WHITES											
Family Income											
Total Families	87,500	14,100	3,100	5,500	6,100	8,200	6,700	5,200	10,900	4,500	15,900
Percent	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
$0-$3,499	19.8	43.3	32.1	35.7	22.6	20.7	9.0	13.2	11.2	4.5	4.4
$3,500-$4,999	10.7	11.3	7.2	21.4	21.0	14.6	9.0	11.3	9.3	6.8	4.4
$5,000-$7,999	23.2	16.3	14.3	21.4	29.0	26.8	31.3	26.4	26.2	29.5	20.1
$8,000-$9,999	13.4	7.8	10.7	7.2	11.3	13.4	19.4	15.1	14.0	13.6	18.2
$10,000 & Over	32.9	21.3	35.7	14.3	16.1	24.4	31.3	34.0	39.3	45.5	52.8
Median Family Income . .	$ 7,500	$ 4,400	$ 8,500	$ 4,600	$ 5,400	$ 6,600	$ 8,100	$ 7,800	$ 8,400	$ 9,200	$ 10,500

TECHNICAL NOTE

The Atlanta Urban Employment Survey is designed to measure social and economic characteristics of residents in the Atlanta Concentrated Employment Program (CEP) Area. The surveyed area, referred to as the CEP Area, consists of the CEP Area 1/ less two Census tracts (F-61 and F-62) in the West End area; and, as such, the UES and CEP Areas do not coincide. The parallel survey for the balance of the City includes all additional areas within the political boundaries of the City of Atlanta.

1/ The Atlanta CEP Area contains 30 census tracts located within about a 2½-mile radius around the center of the City. These tracts cover essentially five Neighborhood Service Center Areas established by Economic Opportunity Atlanta. The centers and census tracts are as follows:

Neighborhood Service Center Area	Census Tracts
Nash-Washington	F-22, -23, -25, -26, -36, -37, -38, -39, -43.
West End	F-41, -42, -59, -60, -61*, -62*.
Pittsburg	F-57, -58, -63, -49**, -50**, 53, -55B, -67.
Summerhill-Mechanicsville	F-44, -45, -46, -47, -48, -55A, -56.

* Excluded from the UES Area and, thereby, covered in the balance-of-City survey.

** Not served by Service Center.

The Neighborhood Service Center Areas include, in addition to neighborhoods of the titles, the following neighborhoods and communities.

Neighborhood Service Center Area	Neighborhoods Included
Nash-Washington.....	Vine City, Lightning.
West End.....	Oakland City West, Smoky Hollow, Bush Mountain, Oakland City East, Adair Park, Heard's Bottom, Woody Hill, Center Hill.
Price.....	Carver Homes, People Town, Joyland, South Atlanta, Primrose Circle.
Summerhill-Mechanicsville.....	Oakland, Grant Park, Capitol Homes.

Although the CEP Areas covered by the Urban Employment Survey are sometimes described as slum areas, it should be noted that these are diverse neighborhoods which often include a substantial number of persons and families who are not living in slum or poverty conditions and who do not have serious employment problems.

In this report, data for Negroes and other races have been used to represent the situation for Negroes who comprise over 99 percent of the group 16 years of age and over in Atlanta.

The data upon which this report is based were collected by Census Bureau interviewers over a 12-month period (July 1968-June 1969) from a sample of about 3,500 households in the Atlanta CEP Area and a like number in the balance of the City of Atlanta. Since the estimates in this report are derived from a sample, they may differ from measures that would have been obtained had a complete census been taken. Therefore, differences between levels and rates, particularly for small estimates, should be interpreted with caution.

The standard error is a measure of sampling variability, that is, the variations that occur by chance because only a sample of the population is surveyed. The chances are about two out of three that an estimate from the sample would differ from a complete census by less than the standard error. The chances are about 19 out of 20 that the difference would be less than twice the standard error.

Following are statistical tables for Atlanta CEP Area and for the City of Atlanta. Tables A and C show the average standard error of the levels presented in this report while Tables B and D show the standard error of the rates and percentages.

Table A

Standard Errors of Level of the Annual Estimates for Atlanta CEP Area

Size of estimate	Standard Error
5,000	200
15,000	400
20,000	450
30,000	550
35,000	600
40,000	650
50,000	700
55,000	750
60,000	770
65,000	800

Table B

Standard Errors of Level of the Annual Estimated Percentages for Atlanta CEP Area

Base of percentage	Estimated percentage						
	1 or 99	2 or 98	5 or 95	10 or 90	20 or 80	25 or 75	50
5,000	.4	.6	1.0	1.3	1.8	1.9	2.2
15,000	.3	.4	.6	.8	1.0	1.1	1.3
20,000	.2	.3	.5	.7	.9	.9	1.1
30,000	.2	.3	.4	.5	.7	.8	.9
35,000	.2	.2	.4	.5	.7	.7	.8
40,000	.2	.2	.3	.5	.6	.7	.8
50,000	.1	.2	.3	.4	.6	.6	.7
55,000	.1	.2	.3	.4	.5	.6	.7
60,000	.1	.2	.3	.4	.5	.6	.6
65,000	.1	.2	.3	.4	.5	.5	.6

Table C

Standard Errors of Level of the Annual Estimates for Atlanta City

Size of estimate	Standard error
30,000	1,200
65,000	1,800
95,000	2,200
130,000	2,600
160,000	3,000
190,000	3,300
225,000	3,600
255,000	4,000
290,000	4,300
320,000	4,600

Table D

Standard Errors of Level of the Annual Estimated Percentages for Atlanta City

Base of percentage	Estimated percentage						
	1 or 99	2 or 98	5 or 95	10 or 90	20 or 80	25 or 75	50
30,000	.4	.5	.8	1.1	1.5	1.6	1.9
65,000	.3	.4	.6	.8	1.0	1.1	1.3
95,000	.2	.3	.4	.6	.8	.9	1.0
130,000	.2	.3	.4	.5	.7	.8	.9
160,000	.2	.2	.4	.5	.6	.7	.8
190,000	.1	.2	.3	.4	.6	.6	.7
225,000	.1	.2	.3	.4	.5	.6	.7
255,000	.1	.2	.3	.4	.5	.6	.6
290,000	.1	.2	.3	.4	.5	.5	.6
320,000	.1	.2	.3	.3	.5	.5	.6

AMERICAN CIVIL LIBERTIES UNION
of Georgia

52 FAIRLIE STREET, N.W. ▪ TELEPHONE 404/523-5398 ▪ ATLANTA, GEORGIA 30303

AT DIS

April 6th, 1966

Mr. Emory Via
Southern Regional Council
5 Forsyth Street, N. W.
Atlanta, Georgia 30303

Dear Emory:

Enclosed is a copy of my letter to Mayor Allen about which we talked this afternoon. As I told you, the Mayor's secretary called me today to say that the Mayor had checked with the Atlanta Personnel Department about all city employment forms.

The Personnel Department claims that it has reinstated racial classification on its application forms because many civil rights and human relations groups wish to know how many Negroes have applied for city employment, and that these statistics are compiled from these forms to be used in answering such queries and for general information only; they are not used, according to the Personnel Department, in a discriminatory way against applicants.

I told the secretary that this was not an acceptable reason for racial classification on an application form; that whatever the intent, it was bound to be interpreted as discrimination; that the important statistic was how many Negroes are actually employed and this could be discovered without racial classification on application forms; and that I would share her (the Mayor's) answer with the Urban League, Breadbasket and other human relations groups as I had shared my original answer.

She stated that she would pass along my response to Mayor Allen.

It's all yours to proceed as you see fit.

Sincerely,

Florence

Mrs. Frederick E. Robin
Executive Director

MR. HUGH GIBERT, PRESIDENT
MRS. FREDERICK ROBIN, EXECUTIVE SECRETARY
MR. DONALD HOLLOWELL, FIRST VICE-PRESIDENT
MR. HOWARD MOORE, JR., SECOND VICE-PRESIDENT
MRS. LEON GOLDBERG, RECORDING SECRETARY
MRS. FRANK SPENCER, CORRESP. SECRETARY
MR. JOHN GLUSTROM, TREASURER

April 4th, 1966

The Hon. Ivan Allen
City Hall
Atlanta, Georgia 30303

Dear Mayor Allen:

It has come to our attention that the Application for Examination Form, distributed to prospective employees by the City of Atlanta Personnel Department, asks for the race of the applicant. This appears on line four as follows:

Male ( ) Female ( ) White ( ) Col. ( )

This form was given to an applicant not more than three days ago, so there is no doubt that it is in current use.

We realize that local government is exempt from the 1964 Civil Rights Act, which prohibits classification on the basis of race. So I bring this matter to your attention not because it is illegal, but because it is surely against public policy and will prove harmful to the good community relations you are trying so hard to maintain.

I have shared this form with some people at the National Urban League and Operation Breadbasket, and I know they feel with us that a prompt order from you eliminating racial classification from the Application for Examination Form will do much to preserve a harmonious atmosphere in Atlanta.

We hope you, too, will agree that immediate administrative action is preferable to a round of conferences, protests, publicity, and the whole long-drawn out, costly procedure which all too often must be employed to achieve a desirable result.

We look forward to your response with appreciation.

Sincerely yours,

Mrs. Frederick E. Robin
Executive Director

April 15, 1966

Mrs. Eliza Paschall
Atlanta Council on Human Relations
5 Forsyth Street, N.W.
Atlanta, Georgia 30303

Dear Eliza:

Here is the information on the racial designation on City of Atlanta employment applications.

Let me know if you set up a meeting of agency types to discuss this.

Thanks.

Sincerely,

Emory F. Via
Director
Labor Program

EFV:jb
Enclosure

April 21, 1966

Mrs. Eliza Paschall, Director
Council on Human Relations of
Greater Atlanta, Inc.
5 Forsyth Street, N.W.
Atlanta, Georgia 30303

Dear Eliza:

Thanks for the information regarding Atlanta personnel applications and Clarence Coleman's response.

I am not sure that the matter should simply be let alone at this point. It seems to me that the use of a racial designation on an original application not only provides an opportunity for the agency to discriminate without even having significant face-to-face contact with the applicant but that it is still destructive to every applicant who has to identify himself racially in a society where he knows very well it still makes a big fat difference. Besides this it seems to me we should pay some attention to the thinking the national civil rights agencies have put into this matter. I think, that in sum they are saying to whoever will listen, Yes, we need to know what progress we are making so that at some point you will either count heads or keep records, But at the same time the original application form should not be the place where a racial designation is ~~needed.~~ made

But we can talk all of this over at some later time.

Sincerely,

Emory F. Via
Director
Labor Program

EFV:jb
~~xxxx~~ Florence Robin
bcc:

MRS. JOHN W. STANLEY
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Mr. WILEY MONTAGUE
Mr. MORGAN STANFORD
Mr. AL ULMER
Mrs. CLIFFORD WILSON

COUNCIL ON HUMAN RELATIONS
OF
GREATER ATLANTA, INC.
5 FORSYTH STREET, N. W.
ATLANTA, GEORGIA 30303
TELEPHONE 523-1581

MRS. ELIZA PASCHALL
EXECUTIVE DIRECTOR

April 19, 1966

To: Emory Via and Florence Robin

From: Eliza Paschall E.P.

In response to your letters about the designations "w" and "c" on the City of Atlanta Personnel applications, I talked with Clarence Coleman, who has served on the city committee on merit employment (it has several names) since its appointment by Mayor Allen in 1963. Clarence said he did not know who at "the National Urban League" Florence had talked with about the matter, that this business of identification by race has been discussed a great deal by the committee and others, that there is some feeling that it is helpful to be able to tell how many Negroes have applied and what has happened to the applications, that even if "w" and "c" are eliminated, as we all know, there are always other ways of identifying the applications by race. He suggested that you all get in touch with him. He felt there was no need to call an agency meeting to discuss this particular matter.

He and I agreed that there is much to be discussed about the whole matter of merit employment in Atlanta, both by the city and others. But unless some close follow-up staff work is possible, just a meeting may not be very helpful. The Summit Leadership Conference and all the member groups have numerous committees amd meetings on employment, but it's the lack of staff resources from which the community is suffering.

We have in this office a great deal of material on the city and this committee, will be glad to have you all come browse any time! Coffee on me -

EP:h
c: Clarence Coleman

April 26, 1966

Mrs. Eliza Paschall, Executive Director
Greater Atlanta Council on Human Relations
5 Forsyth Street, N.W.
Atlanta, Georgia 30303

Dear Eliza:

Thanks for your letter. The suggestion of a get-together on a variety of problems related to employment is a good one.

Just let me know.

Sincerely,

Emory F. Via
Director
Labor Program

EFV:jb

P.S. I thought I was a member of the Atlanta Council. No?

COUNCIL ON HUMAN RELATIONS
OF
GREATER ATLANTA, INC.
5 FORSYTH STREET, N. W.
ATLANTA, GEORGIA 30303
TELEPHONE 523-1581

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DR. JON JOHNSTON
TREASURER

MRS. ELIZA PASCHALL
EXECUTIVE DIRECTOR

April 22, 1966

Dear Emory,

In reply to your note about the Atlanta Personnel Dept. applications, nobody, least of all me, is suggesting that the matter "be let alone".

Since Clarence is a member of the Committee, and the National Urban League is mentioned in Florence's letter and Clarence personally has been as close to this whole matter as anybody in the city, I think it would be good for you and Florecne to talk to him directly, as he suggested.

My point was that at this particular time, to call a meeting just on that one point may not be the best use of our time. We have a committee that has been working on munerous phases of employment and has got facts about numerous facets that need attention. I'd rather wait til we get a few specifics (e.g., the apprentice programs) finished & then call a meeting of a few people to consider the whole employment picture and what constructive steps could be taken.

I would hope that my own working schedule would permit such a meeting in the next few weeks - as soon as I can let loose on some of the Citizens Information Service efforts - mostly getting something definite - yes or no - out of EOA.

We do definitely plan to come up with some recommendations about employment & would welcome your participation, both as an SRC staff member and I hope a member of the Atlanta Council.*

Sincerely,

Eliza

copy to Florence

* Greater Atlanta, which includes DeKalb —

'U. S. DEPARTMENT OF LABOR
Bureau of Apprenticeship and Training
Washington, D. C. 20210

October 17, 1966

Mrs. John W. Stanley
Council on Human Relations
of Greater Atlanta, Inc.
5 Forsyth Street, N. W.
Atlanta, Georgia 30303

Dear Mrs. Stanley:

Your recent letter to the Secretary of Labor, W. Willard Wirtz, has been referred to me for reply.

I share with you a great concern for the implementation of the recommendation of the White House Conference "To Fulfill these Rights" that Metropolitan Job Councils be established. I feel that support for such a proposed organization must be generated at the local level if it is to be effective because of the very nature of such a program. Each community has its own unique problem.

The Department of Labor stands ready to lend any possible assistance to asure that all qualified persons share equally in available training and job opportunities.

It is good to know of your appreciation of the kind of value an Apprenticeship Information Center would have for the City of Atlanta.

However, Congress has not appropriated funds specifically for Apprenticeship Information Centers for fiscal year 1967. Funds previously appropriated have all been committed and numerous cities such as your own are also interested in having a Center. The interest in economy in government operations will probably influence any decision as to the future of the Centers.

I wish to commend you for exercising such initiative and resourcefulness which you have so ably demonstrated in securing and disseminating information on job opportunities in your area.

If I can be of further assistance to you, please let me know.

Sincerely yours,

/s/ George W. Sabo
Acting Administrator"

Council on Human Relations of Greater Atlanta, Inc., 5 Forsyth St., N. W., Atlanta, Ga. 30303; 523-1581

We invite your attention to the following report on apprenticeship and training programs in metropolitan Atlanta; recommendations to U. S. Secretary of Labor Willard Wirtz and reply; and a chart showing apprentice programs current in Atlanta as of August, 1966.

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INFORMATION ON APPRENTICESHIP AND TRAINING PROGRAMS IN METROPOLITAN ATLANTA AND RECOMMENDATIONS REGARDING SAME

The concern of the Council on Human Relations of Greater Atlanta in the field of training and employment is that existing programs be equally available to Negroes and whites and the existing programs be adequate for those in need of training and/or jobs. Our function has been chiefly that of information and communication, particularly where eligibility policies have changed.

We assume that an opportunity cannot be said to exist for someone if that individual does not know about it and we have concentrated on obtaining accurate information about training and job openings and distributing this to individuals who might be eligible and to those who advise and counsel on training and employment. It is in this setting that we sought information on apprenticeship training programs in the metropolitan Atlanta area, and it is for this purpose that the report was compiled.

Almost more important that the facts on the programs, however, is the fact of the difficulty of obtaining such information. In 1963 the Council for similar reasons collected information on apprenticeship programs, and it was necessary for someone to go to the Regional Office of the U. S. Dept. of Labor Bureau of Apprenticeship and Training in Atlanta and copy from records there the names and address of the persons to contact for each of the programs approved for the area, and then to contact each of these individually for information on the program.

The situation in 1966 is the same. Because we know the people now, it was possible to telephone and ask for a list to be sent to us, but still there is no one office which maintains for general distribution a listing of approved apprentice programs for the Atlanta area, with information for each such as eligibility, application procedure, etc. Only within the last months were we told there is one person on the staff of the Georgia State Employment Service who keeps current information on the programs in the Atlanta area - we were told that the particular individual assigned to this had changed recently and we were told to "call the Employment Service". After talking with four different people there, we found one person who said he knew about the programs for which GSES gives the test and he would mail us that list. After ten (10) days we have received a list which is not the same as the U. S. Dept. of Labor. The volunteer Council worker who made the individual contacts found that in several cases, the person in charge had changed. In some cases as many as twelve (12) calls were required before the proper person was found. In one instance, it was necessary to wait for a person to return from a hospital confinement.

The new one-stop Federal Information Center worker was not familiar with apprentice programs and did not connect them with the U. S. Dept. of Labor.

The reasons given for this lack of information and coordination are the same which had been given in 1963. It was pointed out that the Labor Department "acts as a consultant only, they contribute no money, have no supervisory power; can only encourage". Their legal obligation for informing those who might be interested is to inform the state school superintendent and the director of the state employment service. In Atlanta the assistant regional director of the Bureau of Apprenticeship and Training does carry on a one man effort to inform high school students, principals and counselor, but obviously this cannot be a regular part of a regional job, and he reports not enough clerical staff to provide regular lists.

The apprentice programs are in the hands of Joint Apprenticeship Committees (JACs) composed of representatives of labor and management. There does not appear to be any arena where the general public can share the responsibility and the initiative for these programs. There are fourteen (14) programs registered with the Bureau of Apprenticeship training for metro Atlanta. (The 1963 list had 10). (The Dept. of Labor says there are 350 apprenticeable occupations in 102 trades). Most of these programs do not have a specific number to be recruited for each year's class, therefore it is difficult to tell if these programs are meeting Atlanta need. The number to be admitted is usually decided at the monthly meeting of the JAC, depending on the job situation. One of those which does give a number is the Electrical JAC, which enrolls approximately twenty-five (25) new apprentices each year. The Georgia Skill Study, prepared for the Georgia Department of Labor in 1962-63 predicted a need for 1253 new electricians to be trained to meet the needs of Atlanta industry for the 1962-67 five years period.

Recent legislation permits the establishment of Apprentices Information Centers, which could not only give facts, but become a base of operation for Apprentice-related activities. The Centers are operated under the auspices of the U. S. Dept. of Labor, but require the agreement and cooperation of management and labor. Reports as to why such a Center has not been established in Atlanta vary. Some say labor turned it down, some labor leaders (including the President of the Atlanta Labor Council) say they have never been called on to act on it; others that it was not explained clearly and that they believe it should be reconsidered.

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This lack of information and coordination is by no means unique with the apprenticeship program. Unfortunately it reflects a lack of information and coordination of the many and varied training and employment programs. Efforts to establish metropolitan Atlanta community-wide coordinating body for planning and evaluating so far have failed. The Georgia State Employment Service, which administers the MDTA program, has a state-wide advisory committee, which meets on call and which also serves for the metropolitan Atlanta area. (We obtained a list which contains the names of the state committee, but no addresses or identification - when we asked for addresses in order to be able to mail material to them we were told to mail it to the Employment Security Director who would decide if it is suitable.)

U. S. Department of Labor bulletins have recommended a local Manpower Advisory

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ment and Training Act program (MDTA) but none has ever been appointed for metropolitan Atlanta, although Mayor Ivan Allen only recently retired as one of the public representatives on the National Manpower Advisory Committee.

When it was suggested to Mayor Allen in 1963 that a local Manpower Committee be appointed, he indicated that initiation of such a committee was not a function of the Mayor's office.

On January 2, 1964 a meeting on Training was called by the Atlanta Coordinating Committee, which had been appointed by Mayor Allen in response to the creation of the Summit Leadership Conference. The meeting was attended by representatives of state and federal agencies, labor management and civic organizations. Again the desirability of a community-wide committee was agreed upon, but there was no answer to the questions of who should initiate such, and who should pay for any expenses incurred.

A report of the Council on Human Relations dated January 14, 1964 records an interview with the Supervisor of Community Employment Programs of Georgia Dept. of Labor who replied "yes" to the question "would it be good to have a community-wide committee?" The next question was "who would appoint such" and the answer was "we would. We're working on that now".

There is still no metropolitan committee, and indeed according to the Employment and Service Board there appears to be no one in charge of the services of the Employment Service in the metropolitan area. When an interviewer asked to speak to the person in charge of the Atlanta area, she was told that there is no one person, that it varies with each program. Most of these programs are cooperative programs with the U. S. Dept. of Labor and as such come under the general supervision of the Assistant Secretary of Labor for Manpower, but any coordination at present seems to be primarily at the national level. In the Regional Office of the Labor Dept. in Atlanta, as in other Regional Labor Dept. offices, there is no Regional Director, but a Regional Committee made up of the heads of the various bureaus with a rotating chairman.

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The latest recommendation for a coordinating committee or council comes from the 1966 White House Conference on Civil Rights. The report of the Council which planned the June 1-2 1966 White House Conference on Civil Rights made a series of recommendations, the first of which is "Establish Metrpolitan Jobs Councils in all Major Urban Areas to Plan, Coordinate and Implement Local Programs to Increase Jobs". The recommendation is restated "What should be done": "Metropolitan Jobs Councils should be established in each major urban area with a substantial Negro Population. With urgent support from the highest levels of the national government, the initiative in establishing such councils should be taken promptly in all major cities of the United States".

The part of the picture which is still missing is WHO is to take the initiative and even more important, at whose initiative will other groups

respond, so that the Jobs Council includes those actually involved in Manpower programs rather than those who comment on manpower programs. TO WHOM is such a Council to be accountable and WHAT CONTROLS could it or should it exert over the "job system" of the community?

The apprentice training picture in Atlanta illustrates clearly the need for coordination and stimulation of more efforts. It illustrates just as clearly the present diffusion of responsibility and authority and the resulting confusion for those for whose benefit the programs are being developed.

There is now a new President's Committee on Manpower Coordination. Secretary of Labor Wirtz is Chairman and the members include heads of most departments and agencies of the executive branch of the U. S. Government. Hopefully coordination on this level will be reflected in regional and local levels.

We respectfully urge Secretary of Labor Wirtz (1) to direct appropriate persons in his own department to take the initiative in establishing adequate community councils which the general public can then hold accountable for protecting the public interest in this important area of training and employment; (2) to make sure that the offices established for these purposes are staffed with adequate office personnel to enable the public to reap the benefits of the efforts of the professional personnel, and (3) to use his good offices to initiate another effort to establish an Apprentice Information Center in Atlanta.

CORRESPONDENCE WITH DEPT. OF LABOR:

The Hon. Willard Wirtz
Secretary of Labor
U. S. Department of Labor
Washington, D. C.

Dear Mr. Secretary:

We are taking the liberty of sending to you the attached report on the experiences of our organization in obtaining information about apprentice and other training programs in the Atlanta area, with three recommendations for your attention at the end of the report.

Sincerely yours,

/s/ Mrs. John W. Stanley
Chairman

Enclosure"

Compiled by - Council on Human Relations of Greater Atlanta, Inc., 5 Forsyth St., N.W., 523-1581

APPRENTICE PROGRAMS IN ATLANTA AREA REGISTERED WITH U.S. DEPT. OF LABOR

TRADE	CLASSES BEGIN & WHEN APPLY	ELIGIBILITY	WHERE APPLY	MAKEUP OF JAC*
1. Electrical	July by April 30	18-24 yrs. old or 28 if vet., eqiv. of h.s. ed., copy of birth cert., pass apt. test at GSEO & interview by comm.	Rm. 137, 195 P'-tree or GSEO, Mr. Walter Griffith, Coordinator	3 labor & 3 management
2. Ironworkers	When there is a need for ironworkers	18-30 yrs. old, h.s. ed., pass apt. test at GESO & interviewed by Comm.	1014 Edgewood Ave. Mr. Ben Lorry, Coordinator	
3. Painters	Anytime	18-24 yrs. old, h.s. ed., equiv. interviewed by Comm.	With coordinator Mr. J.J. Webb, 263 Casson St., 373-1463	3 & 3
4. Bricklayers	every 3 by 15th of month previous month	17-24 yrs. old, no ed. requirements	121 Memorial Dr., S.W., Mr. Elmer Holden or St. Labor Bldg. (Trinity)	3 & 3
5. Sheet Metal	September Jun-Aug.	18-26 yrs. old, h.e. ed., pass math & apt. test at GSEO, & interviewed by C.	250 Tenth St., N.E., or St. Empl. Office 873-3706	3 & 3
6. Plumbing & Pipefitting	February January September Summer	18-25 yrs. old. pass apt. test at GSEO, h.s. ed. pass math test at JAC, & interviewed by Comm.	GSEO: Mr. Curtis Green, Training Dir., 200 Mech. Inst. 742 Ponce De Leon St., Atlanta	4 & 4

*Joint Apprenticeship Committee

Cont'd 2

TRADE	CLASSES BEGIN-WHEN APPLY	ELIGIBILITY	WHERE APPLY	MAKEUP OF JAC
7. Carpenters	Apply anytime	18-24 yrs. old unless vet., h.s. ed. or equiv. pass apt. test at GSEO, interview by Comm.	Carpenters Union 250 Tenth St., N.E., Mr. Charles Ingraham, Dir. c/o Flagler Co., 305 Techwood Dr., N.W.	3 & 3
8. Printers (Pressmen & Compositors)	Apply anytime	H.s. ed., 19-25; or equiv. apt. test at GSEO, screened by Comm.	Printing Industry of Atl. 881 Piedmont Ave., Mr. Baker 873-1805;apply with Printing Co.	
9. Machinists (Capitol City Machine Shop - pvt. industry	Apply anytime	H.s., el.	Capitol City Machine Shop 301 Pryor St., S.W. Mr. W. H. Strickland; 522-7739	
10. Lathers	Apply Mon. & Wed. 6:30 p.m. at JAC, as they need them, always keeping ratio on apprentice to 5 journeymen (?)	8th grade, apt. test; 18-24	158½ Auburn Ave., N.E., Mr. H.N. Bowen, Inst., Mr. Alexander Jackson, Bus. (525-4478)	
11. Natl. Biscuit Co. Machinists	Pvt. Co. training program for machine shop Apply anytime	18-30; h.s. ed and/ or vocational sch. or work exp.	Apply with Co., screened by Comm. Mr. Vinson, Mr. Johnson, Mr. Turner, Natl. Bis. Co., Mfg. Plant, 1400 Murphey Ave. S.W., (758-7461)	
12. Roofers	Apply anytime	No special requirements	JAC, Mr. Larry Shields, 208 Red Rock Bldg., 688-2543	
13. Lockheed-Ga.	Apply anytime	19-26; h.s. ed. dip. pass test battery; strong in math; intview by subcomt., screened by full comm.	Mr. H.H. Mann, Apprentice training Coordinator, Lock-Ga., Dept., 89-01, Marietta (424-2782)	
14. Plasters & Cement Masons	Apply anytime	18-26; familiar with construction work	Mr. E.C. Couch, 60 Haynes St., 525-1233	

[June, 1966 ??]

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

NEW ORLEANS DIVISION

ROBERT HICKS, individually
and on behalf of all others
similarly situated

v. CIVIL ACTION NO.

CROWN ZELLERBACH CORPORATION
THE INTERNATIONAL BROTHERHOOD
OF PULP, SULPHITE AND PAPER
MILL WORKERS, MAGIC CITY
LOCAL NO. 362, OF THE INTER-
NATIONAL BROTHERHOOD OF PULP
SULPHITE AND PAPER MILL WORKERS,
BOGALUSA LOCAL 624 OF THE
INTERNATIONAL BROTHERHOOD OF
PULP, SULPHITE AND PAPER MILL
WORKERS.

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C O M P L A I N T

JURISDICTION:

1. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. Section 1343. This is a suit in equity authorized and pursuant to Title VII of the 1964 Civil Rights Act, 42 U.S.C. Sections 2000 (e) et seq., and 42 U.S.C. Section 1983. The jurisdiction of this Court is invoked to secure the protection of and to redress deprivation of rights secured by (a) Title VII of the 1964 Civil Rights Act, 42 U.S.C. Section 2000 (e), providing for injunctive and other relief against racial discrimination in employment, and (b) 42 U.S.C. Section 1981, providing for the equal rights of citizens and all persons within the jurisdiction of the United States.

PARTIES:

2. Plaintiff Robert Hicks is a Negro resident of Bogalusa, Louisiana, and a citizen of the United States and of the State of Louisiana. He has been employed as a "take off man" in the Corrugator Department of the Crown Zellerbach, Box Plant (Gaylord Container Division) in Bogalusa for the past 16 years.

He is 37 years old, a homeowner, a registered voter, married, and the father of five children.

3. Plaintiff sues on behalf of himself and on behalf of all other Negro employees and prospective employees similarly situated pursuant to Rule 23 (a) (3) of the Federal Rules of Civil Procedure.

discrimination on the ground of race or color.

STATEMENT OF THE CLAIM:

8. After 16 years as a Crown employee plaintiff Hicks is still performing the same job for which he was originally hired.

(a) Past Discrimination

This resulted primarily from the racially segregated lines of progression maintained by defendant in the Corrugator Department where plaintiff works.

The Negro line of progression in ascending order is:

1. Unassigned
2. Take-off Man (0201 Machine)
3. Take-off Man (0208 Machine).
4. Rod man.

The white line of progression is ascending order is:

5. Slitter Man (0201 Machine)
6. Glue-Pam Man (0201 Machine)
7. Slitter Man (0208 Machine)
8. Glue Pan Man (0208 Machine)
9. Operator (0201 Machine)
10. Operator (0208 Machine)

The white jobs pay more than the Negro jobs.

Until approximately August, 1965, Negroes were not permitted to apply for the white line of progression.

Slitter Men were chosen from White employees who work on the Score machine in the Cutting Department, a different department.

This occured despite the natural functional relationship between the two lines of progression. Thus although one trained as a "take off" man had experience which well qualifies him for slitter man, this experience was ignored.

b. CONTINUING PRESENT DISCRIMINATION

1. With the advent of the intense civil rights movement in Bogalusa, and, in particular, negotiations between defendant Crown Zellerbach and Negro employees in or around August, 1965, Crown changed its policy, but in a manner which continues past discrimination against Negro employees.

Slitter jobs were opened to Negroes, only if they passed a qualifying test, and then satisfied traditional on the job training requirements.

Once having passed these barriers, Negroes would then become part-time slitter men who would fill in for the permanent slitter men who were sick or on vacation. The majority of their work time would be spent at their former jobs and former pay.

Part-time slitter men become permanent slitter men only after certain personnel from the "score group" in the cutting department moved into and up through the white line of progression.

The remaining plaintiffs constitute the class of Negro employees working at the Box Plant (Gaylord Container Division) Grocery Bag Plant, and Multiwall Bag Plant in Bogalusa, and all prospective Negro Employees at these plants.

There are common questions of law and fact affecting their rights to equal employment opportunity without discrimination on the ground of race or color, and a common relief is sought. The members of this class are so numerous as to make it impractical to bring them all before this Court. The interests of said class are adequately represented by plaintiff.

4. Defendant, the Crown Zellerbach Corporation, is a corporation incorporated under the laws of the State of Nevada, maintaining corporate headquarters in San Francisco, California, and doing business in Bogalusa, Louisiana. Defendant operates and maintains four plants in Bogalusa.

Defendant is an employer engaged in an industry which affects interstate commerce.

Defendant employs approximately 2900 employees and is by far the largest employer in Bogalusa.

5. Defendant, The International Brotherhood of Pulp, Sulphite, and Paper Mill Workers, is an International Union which has jurisdiction over, and is the bargaining representative for employees at the Box, Grocery Bag. and Multiwall Plants of the Crown Zellerbach Corporation.

It exists for the purpose of dealing with employers, including defendant Crown Zellerbach, concerning grieviences, labor disputes, wages, rates of pay, hours, and other terms or conditions of employment. It does business throughout the United States, its principle headquarters being located in Fort Edward, New York.

It is a union engaged in an industry which affects interostate commerce. It has over 100 members in Bogalusa.

6. Defendant, Magic City Local No. 362, is the white local union of the International Brotherhood of Pulp, Sulphite, and Paper Mill Workers, It represents white employees at the Box, Grocery and Multiwall Crown Zellerbach plants in Bogalusa. It exists for the same purposes at the defendant International. It is engaged in an industry which affects interstate commerce and has over 100 members.

Defendant, Bogalusa Local No. 362, is the Negro local union of the INternational Brotherhood of Pulp, Sulphite, and Paper Mill workers. It represents Negro employees at the Box, Grocery Bag, and Multiwall Plants in Bogalusa. It exists for the same purpose as the defendant Inte rnational.

NATURE OF THE CLAIM:

7. This is a class action seeking preliminary and permanent injunctions restraining defendants from maintaining a policy, practice, custom, and usage of racial discrimination and segregation, and of denying, attempting to deny, and otherwise interfering with the rights of plaintiff and others similarly situated to equal employment and promotional opportunities at its plants, [illegible]

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These "score" employees were held to have promotional rights which were superior to those of the Negro employees, and which pre-dated the testing program.

These are only three slitter positions at the bottom of the white line.

The effect of the test program combined with the inferior promotional rights granted to Negroes is to effectively exclude Negro employees from entering the white line of progression on a permanent basis for years to come.

The invidious discriminatory upshot of this system is to ignore plaintiffs' long years of experience in favor of much younger employees with much less plant seniority.

2. The test operates to continue past discrimination against Negroes because:

a. No incumbent white employees, had to take tests to enter the white line of progression. Qualifications for a job were determined by receptiveness to on-the-job training.

b. No whites now have to take tests to gain promotion within the white line of progression.

c. Five members of the "score" group held to have superior promotional rights to plaintiffs do not have to take the test.

d. The tests do not begin to measure the skills required for the slitter man job or for labor jobs in general but are more akin to a general college aptitude test.

e. Slitter work bears a close functional relationship with jobs in the Negro line of progression. The tests discriminate because they ignore the years of related and actual slitter job experience which have prepared plaintiffs for slitterman work.

f. The tests are culturally biased against Negroes because they bring an inferior segregated education to the testing table.

g. The tests are unfairly graded. Plaintiffs are not formally notified of their test results. Upon inquiry they are not allowed to see the tests; they are merely told the areas in which they are weak.

Plaintiff Hicks has frequently worked on the slitter machine and performed slitter man work. He and members of his class can with little training perform any job in the white line of progression

Yet plaintiff has failed to pass the qualifying test.

9. Defendant maintains segregated lines of progression in the corrugator Department, and permit employees outside the department to bid on slitter jobs. This permits white employees to bid on desirable jobs without working their way up though the Negro line of progression, even though they have less seniority then Negroes who have worked their way up through the Negro line of progression. This system nullifies plaintiffs' long years of departmental experience and plant service as a criteria for advancement.

This system is particularly discriminatory since the Negro line of progression is functionally related to and leads naturally into the white line of progression.

10. Defendant Crown Zellerbach has discriminated against Negroes in its hiring practices. The Negro population in Bogalusa is one third the white population; the number of Negro employees at defendant's plants is approximately one eighth the number of white employees. There are no Negro females employed in productio n jobs at the Box, Grocery Bag, and Multiwall Bag plants. In many departments there are no Negro employees.

Further, the recently instituted pre-employment test is graded unequally in favor of white employees.

11. Defendants have denied Negroes equal promotional opportunities in the Shipping Department of the Box plant. The "scale man" job, formerly the top position in the predominantly Negro line of progression, was always staffed by white men. When Negroes expressed interest in the scale job, defendants reclassified the job as "assistant foreman", thereby placing the job under management's jurisdiction. Defendant Crown Zellerbach has continued to staff the position with whites. Consequently Negro employees with approximately fifteen to twenty years of plant experience are being supervised by white employees in their early twenties.

12. Racial Discrimination exists in the Over The Road Trucking Department of the Box plant. All service men are Negroes; all drivers are white. Negro service men train the new white truckdrivers who then fill the easier, more desirable, higher paying jobs.

There is no line of progression from service men to truckers.

The newly instituted qualifying test is a prerequisite for employment as a truckdriver.

13. Defendants maintain segregated lines of progression in the Paster Department of the Box Plant, although the Negro line merges naturally into the white line.

As in the Corrugator Department, a test has been interposed between the two lines.

14. Almost all janitor positions are staffed by Negroes.

The miscellaneous labor group is comprised of Negroes.

Departmental janitors do not move up in the departmental line of progression, but advance only in the janitorial miscellaneous labor group line of progression. The result is to keep Negroes in the more menial, lower paying tasks.

15. Prior to the Civil Rights Movement in Bogalusa in the summer of 1965 defendant Crown Zellerbach maintained segregated facilities marked by segregated signs. In or about September, 1965 defendant built new shower, bathroom, and locker facilities. The new constructions were arranged in a manner which forced continued segregation in plant facilities.

16. Plaintiffs have been and are being denied equal employment and promotional opportunities because of their race and color in violation of Title VII of the 1964 Civil Rights Act, 42 U.S.C. 2000 (e) et seq., and 42 U.S.C. 1981.

ADMINISTRATIVE BACKGROUND:

17. Neither the State of Louisiana, nor the City of Bogalusa has a law prohibiting the unlawful practices alleged herein.

On November 16, 1965, plaintiffs filed a complaint against Crown Zellerbach with the Equal Employment Opportunities Commission alleging denial of their rights under Title VII of the 1964 Civil Rights Act. On March 3, 1966 the Commission found reasonable cause to believe that violations of the Act had occurred by defendant Crown Zellerbach.

Because of continued discrimination by Crown plaintiff filed a similar complaint on March 16, 1966.

On April 16, 1966, plaintiff filed a similar complaint with the Commission against:

1) Magic City Local No. 362, the white local union

2) Bogalusa Local No 624, the Negro local union

3) The International Brotherhood of Pulp, Sulphite, and Paper Mill Workers

This complaint also contained an additional allegation against defendant Crown Zellerbach.

Efforts at conciliation by the Commission have not achieved voluntary compliance with the law. This suit is therefore necessary.

18. Plaintiffs have no plain, adequate or complete remedy to redress the wrongs alleged, and this suit for a preliminary and permanent injuction is their only means of securing adequate relief. Plaintiff and the class he represents are now suffering and will continue to suffer irreperable injury from defendants' policies practice, customs and usage as set forth herein.

WHEREFORE, plaintiff respectfully prays this Court advance this case on the docket, order a speedy hearing at the earliest practicable date and upon such hearing to:

1. Grant plaintiff and the class he represents a preliminary and permanent injuction enjoining defendants, their agents, successors employees, attorneys and those acting in concert with them and at their direction:

a) from continuing or maintaining the policy, practice, custom, and usuage of denying, abridging, withholding conditioning, limiting, or otherwise interfering with the right of plaintiffs to enjoy equal employment opportunity as secured by Title VII of the 1964 Civil Rights Act, 42 U.S.C. 2000 (e) et seq., and 42 U.S.C. 1981 without discrimination on the basis of race or color.

b) from utilizing th recent testing system as a basis for promotion for present employees and in particular from using the Wonderlic, Thurston Clerical or other similar tests as a basis for promotion.

c) from denying plaintiff and members of his class promotion on the same basis to which white employees to have been accustomed- on the job training.

d) From permitting existence of plant facilities on any basis which leads to segregated facilities, including lockers, showers, and restroom facilities, and from re-assigning lockers on an alphabetical-numerical, seniority-numerical, or other non-discriminatory basis.

e) From permitting the existence of segregated lines of progression within a department, and from permitting a merger of the line of progression in:

1) The corrugator department in which the Negro line of progression shall lead directly into the white line of progression the order of jobs being (1) Porter (2) Take-off man (3) Rod Man (4) Slitter Man (5) Glue Pan Man etc.

2) The Paster Department in which the Negro line of progression shall lead directly into the white line of progression, the order of jobs being, (1) Sparehand (2) Trucker (3) Take-off Man (4) Rod Man (5) Slitter Man (6) 1st Helper (7) Operator

3) The Over-the-Road-Trucking Department in which the line of progression in ascending order shall be (1) Service Man (2) Trucker

f) From prohibiting departmental janitors from being a part of and moving up in the line of progression in their departments.

g) From permitting employees on the score machine in the cutting department from bidding on slitter man jobs in the corrugator department until all Negroes employees in the Corrugator Department who have greater plant seniority have had an opportunity at the job.

h) From permitting bids on any but the lowest jobs in a line of progression, by employees outside the line of progression, until all employees in the line of progression, have had an opportunity at the vacancies which occur above them.

i) From denying entrance into a line of progression in a different department on the grounds of race or color, and from denying said entrance to the applicant with the greatest plant seniority who meets on the job training requirements.

j) From preventing any Negro who transfers from a traditionally Negro department, line of progression or job, to a predominantly white ~~line of~~ Department, line of progression, or job, from losing his seniority in the group from which he transferred, and from being returned to his former slot in the event of a cut-back.

k) From restoring the "scale man" job to the Negro line of progression, the shipping department, from removing the present assistant foremen, and from opening bids on those jobs to the Negroes in the line of progression with the highest plant seniority

l) From denying Negroes, male and female, employment throughout the plants on the basis of race or color.

m) From unequally grading pre-employment tests in favor of white employees. From failing to submit graded copies of all pre-employment tests to the Equal Employment Opportunity Commission designating on each test, the race of the applicant, the questions answered correctly the test score, and whether the applicant passed or failed.

n) From retaliating or attempting to retatiate against plaintiff or any witness against defendants in these proceedings in any manner, including intimidation, harassment discrimination or any other measures which affect his wages, hours, or working conditions.

Plaintiffs further pray that they be allowed their costs herein including reasonable attorneys fees, and such other or additional relief or may appear to the Court to be equitable and just.

Respectfully submitted,
COLLINS, DOUGLAS & ELIE
2211 Dryades Street
New Orleans, La.

BY: Nils R Douglas

Alvin Bronstein
603 N. Farish Street
Jackson, Mississippi

Harris David
2211 Dryades Street
New Orleans, Louisiana

PARISH OF ORLEANS

STATE OF LOUISIANA

ATTORNEYS AFFIDAVIT

I, Nils R Douglas, after being duly sworn, do depose and say:

1. That I am an attorney qualified to practice law in the State of Louisiana, and in the United States District Court for the Eastern District of Louisiana.

2. That I am the duly authorized attorney for plaintiff herein.

3. That I have read the complaint and know the contents thereof.

4. That the facts stated therein are based up personal interviews, and are upon information and belief, true as stated.

5. That I sign this affidavit instead of plaintiff because it deal with questions of fact and/or law, of which I, as an attorney, have more knowlege than that of plaintiff.

Nils R Douglas

SWORN TO AND SUBSCRIBED
BEFORE ME THIS 14th DAY
OF JUNE, 1966.

John G. Elie
NOTARY PUBLIC

[illegible] Civil Rights Act of 1964 [illegible] its interrelationship with state and [illegible]

[illegible] Seniority and Race: The Role of Title VII of [illegible] Act of 1964." William B. Gould. 13 Howard Law Journal, [illegible]

[illegible] is addressed to some of the problems of racial discrimination [illegible] in connection with competitive status seniority wherein [illegible] against another for the purpose of promotion, transfer, [illegible] and lay-off. The complexities of racial discrimination and [illegible] governmental action a difficult and necessarily distasteful task, [illegible] the problem belongs to the Equal Employment Opportunity [illegible] due to the enactment of the Civil Rights Act of 1964 the pro- [illegible] presented are aimed at the Commission.

[illegible] Enforcement of Fair Employment Under the Civil Rights Act of 1964." [illegible] A. Ranney, Jr. 32 University of Chicago Law Review, Spring, 1965, [illegible]

[illegible] which arise in connection with enforcement of Title VII of the [illegible] Rights Act.

[illegible] Equal Employment Opportunity." Cubbedge Snow. 2 Georgia State [illegible] Journal, August, 1965, p. 27.

[illegible] of Title VII of the Civil Rights Act of 1964 barring discrimina- [illegible] in employment.

"Equal Employment Opportunity Law—Practice and Procedure." Committee Report. American Bar Association, Section of Labor Relations Law, [illegible], p. 217.

Summary of the statutory provisions of the Civil Rights Act of 1964, Title [illegible], dealing with equal employment opportunity. Discusses scope of coverage under the statute, standards for determination of unlawful employment practices, and the exemptions under the statute.

"Equal Employment Opportunity Under the Civil Rights Act of 1964." Richard K. Berg. 31 Brooklyn Law Review, December, 1964, p. 62.

Discussion of Title VII of the Civil Rights Act of 1964 prohibiting discrimination in employment on account of race, color, religion, sex or national origin.

"Equality v. Seniority." James E. Youngdahl. 3 Trial, Feb./March, [illegible], p. 24.

Discusses Title VII of the Civil Rights Act of 1964 which, from the standpoint of enforcement, is the weakest chapter in the volume of civil rights [illegible]. Describes the administrative procedures under the Equal Employment Opportunity Commission (EEOC). Considers the legal and practical dilemma arising from federal fair employment practices legislation [illegible] the differing concepts of equality and seniority.

"[illegible] P. C.—Some Practical Considerations." John G. Tower. 24 Fed- [illegible] Journal, Winter, 1964, p. 57.

[illegible] provisions of proposed civil rights bill dealing with equal employ- [illegible] opportunity and nondiscrimination in federally assisted programs.

"The Impact of Recent Developments in Civil Rights on Employers and Unions." Sam Barone. 17 Labor Law Journal, July, 1966, p. 413.

"In[illegible]
S. Shapo [illegible]

Evaluation of NLRB policy on setting aside [illegible] of improper campaign propaganda, and discussion of [illegible] *Sewell Mfg. Co.*, setting aside an election on the ground [illegible] engaged in a propaganda campaign calculated to appeal to racial [illegible] of employees so that they would reject a union on racial grounds alone.

"The National Labor Relations Board and Race Hate Propaganda in Union Organization Drives." Daniel H. Pollitt. 17 Stanford Law Review, March, 1965, p. 373.

Use of race hate propaganda as a device to defeat unionization, as an unfair labor practice, and as a ground for setting aside the results of an NLRB election.

CIVIL RIGHTS ACT OF 1964

"The Civil Rights Act of 1964—Racial Discrimination by Labor Unions." 41 St. John's Law Review, July, 1966, p. 58.

Examines the labor organization provisions and enforcement procedures of Title VII of the Civil Rights Act of 1964 to determine to what extent they will aid in providing equal employment opportunities for Negroes. The major methods of discrimination employed by unions and the resultant effect they have had on the status of the Negro are discussed.

"The Civil Rights Act of 1964—Title VII and Union Unlawful Employment Practices." Mortimer Riemer. 38 Ohio Bar, July 5, 1965, p. 709.

Examines Title VII of the Civil Rights Act of 1964 that was enacted to eliminate discrimination in employment by labor organizations on the grounds of race, color, religion, sex, or national origin, except when there are legitimate occupational qualifications.

"Civil Rights Problems in Personnel and Labor Relations." Ted [illegible] Kammholz. Proceedings of the Third Annual Corporate Counsel Institute, October 15 and 16, 1964, p. 179.

Discussion of some of the effects and problems presented by Title VII of the Civil Rights Act banning employment discrimination by employers and unions.

"Coverage Under Title VII of the Civil Rights Act." Maurice C. Benewitz. 17 Labor Law Journal, May, 1966, p. 285.

Reviews coverage under Title VII of the Civil Rights Act of 1964, definitions in Section 701 and exemptions and exceptions in Sections 702 and 703, and the problems of excluding from coverage religious and educational personnel, professional and administrative personnel, and employers of 24 or fewer employees.

"Discrimination and Due Process. (Is There a Lawyer in the [illegible] Conrad D. Philos. 25 Federal Bar Journal, Fall, 1965, p. 333.

Discusses the Civil Rights Act of 1964 and the questions [illegible] will arise under the Act. Recommends that sound [illegible] due process be adopted.

"Employment Discrimination: State FEP Laws [illegible] VII of the Civil Rights Act of 1964." Gary L. Bryenton. 16 Western [illegible] Law Review, May, 1965, p. 608.

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[illegible] and Enforcement Procedures and Relief and [illegible] Walker. 7 Boston College Law Review, Spring,

[illegible] of Title VII of the Civil Rights Act of 1964 to give the [illegible] Employment Opportunity Commission power to issue quasi-judicial [illegible] orders and proceedings before the Commission as a prerequisite [illegible] action, timeliness in filing charges with the Commission, timeliness in commencing court actions, the economic burdens on private litigants; attorney's fees, the question of a jury trial, class actions, joinder of defendants, and the remedies available.

"Title VII: Coverage and Comments." Charles T. Schmidt, Jr. 7 Boston College Law Review, Spring, 1966, p. 459.

Discusses the effects on apprenticeship and other training programs and the provision prohibiting discrimination on account of sex under Title VII of the Civil Rights Act of 1964.

"Title VII: Limitations and Qualifications." Carl Rachlin. 7 Boston College Law Review, Spring, 1966, p. 473.

Discusses the exceptions and qualifications in Title VII of the Civil Rights Act of 1964 and how the "democratic principle" that "no man should be denied employment commensurate with his abilities because of his race or creed or ancestry," could have been more efficaciously achieved had the statute not been burdened with the aforementioned exceptions and qualifications.

"Title VII: Relationship and Effect on the National Labor Relations Board." Robert S. Fuchs and David B. Ellis. 7 Boston College Law Review, Spring, 1966, p. 575.

Examines the past and future roles of the NLRB in the prevention of racial discrimination in the following areas: board-conducted elections, unfair labor practice cases, contract bar rules, revocation of union certifications, and appropriateness of bargaining units. Also examines the Civil Rights Act and its effect upon the NLRA.

"Title VII: Relationship and Effect on State Action." John W. Purdy. 7 Boston College Law Review, Spring, 1966, p. 525.

Examines the concept encouraging states and political subdivisions of states to police discrimination in employment, under section 708 of Title VII of the Civil Rights Act of 1964, and the resulting effect on a complainant's charge.

"Union Racial Discrimination—Recent Developments Before the NLRB and Their Implications Under Title VII of the Civil Rights Act of 1964." 53 Georgetown Law Journal, Summer, 1965, p. 1103.

NLRB decisions and Title VII of the Civil Rights Act of 1964 are examined.

"What the Supervisor Should Know About the Equal Employment Opportunity Law." Eileen Ahern. 10 Supervisory Management, September, 1965, p. 11.

Outlines Title VII of the Civil Rights Act of 1964—what it prohibits, how it is to be enforced, and its exceptions, and sketches the related activity of the President's Committee on Equal Employment Opportunity under Executive Order 10925 and its effect on government contractors.

Reviews the developments in the civil rights [illegible] nities under the courts, the NLRB, and the [illegible] Commission. Emphasizes need for more [illegible] the Commission the power to cancel contracts [illegible] orders enforceable in the courts.

"Implications for Business of the Civil Rights Act of [illegible]" [illegible] Benetar, Robert Huntington Knight, Norbert A. Schlei and [illegible] 20 The Record of the Association of the Bar of the City of New [illegible] 1965, p. 128.

Discussion of the effect of the Civil Rights Act upon business.

"Jobs, Workers, and the Civil Rights Act." Richard [illegible] 2 Law Notes, Miscellaneous area, July, 1966, 4 pages.

Reviews key provisions of Title VII of the 1964 Civil Rights Act relating [illegible] coverage, exemptions from coverage, prohibitions, exceptions to prohibitions and enforcement.

"Labor Law Section (84th Texas Bar Meeting)—Equal Opportunity." [illegible] Lee G. Williams. 29 Texas Bar Journal, August 22, 1966, p. 618.

Summarizes a discussion of the provisions and exemptions under Title VII of the Civil Rights Act noting that the sex discrimination provisions [illegible] raised the most troublesome questions. Stresses need for fair employment practices legislation in Texas and an affirmative action program to achieve an integrated work force.

"Labor Looks at Equal Rights in Employment." J. Albert Woll. 24 Federal Bar Journal, Winter, 1964, p. 93.

Role and views of the labor movement with respect to portions of the proposed civil rights bill dealing with equal employment opportunities.

"Management's Concern with Recent Civil Rights Legislation." Robert W. Kopp. 16 Labor Law Journal, February, 1965, p. 67.

Discussion of Title VII of the Civil Rights Act of 1964, the Federal Equal Pay Act of 1963, presidential executive orders prohibiting discrimination, and New York state law against discrimination, in so far as such legislation affects management's obligations to its employees and applicants for employment.

"Proposed Amendments to Federal Equal Employment Opportunity Legislation." By the Committee on Federal Legislation and the Committee on Labor and Social Security Legislation. 21 Record of the Association of the Bar of the City of New York, June, 1966, p. 412.

Discusses H. R. 10065, which would amend Title VII of the Civil Rights Act of 1964 to extend employee coverage, to grant enforcement powers to the Commission and to eliminate the 60-day period of "deferral" by the Equal Commission to state fair employment practices commissions.

"The Role of Law in Securing Equal Employment Opportunity: [illegible] Powers and Social Change." Herbert Hill. 7 Boston College Law Review, Spring, 1966, pp. 625.

Examines the reasons for the increasing attacks by Negro workers [illegible] criminatory practices through the NLRB and utilization of Title VII of the Civil Rights Act of 1964 in addition to litigation in both [illegible] courts, and the far reaching effects of these actions on both employers [illegible] labor unions.

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[illegible]

[illegible] Opportunity Commission [illegible] for opening of all job classifications to all employees [illegible] complete elimination of segregated facilities, and [illegible] employee skills.

[illegible] ROLE AND EFFORTS

[illegible] Rights and Fair Employment." Frederic D. Anderson. 22 Business Lawyer, January, 1967, p. 513.

[illegible] the federal regulation of discrimination in employment and the four principal sources of such legislation, namely, Title VII of the Civil Rights Act of 1964, Executive Order 11246, the Equal Pay Act of 1963, and the NLRA.

"The Constitution and Job Discrimination." Vern Countryman. 39 Washington Law Review, Spring, 1964, p. 74.

Discussion as to what has been done and what can be done to eliminate discriminatory employment practices, and conclusion that government intervention is needed to preserve constitutional job rights.

"A Critique of 'The Constitution and Job Discrimination'." Jerre S. Williams and William R. Ming Jr. 39 Washington Law Review, Spring, 1964, p. 96 and 104.

Critical appraisals of article by Vern Countryman, entitled "The Constitution and Job Discrimination," which discusses possible remedies for discriminatory employment practices.

"Employment Discrimination and Interstate Commerce." 37 Indiana Law Journal, Summer, 1962, p. 490.

Evaluation of efforts by states and federal government to abolish discrimination in employment, and conclusion that federal government has not acted significantly with respect to employment discrimination.

"The Federal Interest in Employment Discrimination: Herein the Constitutional Scope of Executive Power to Withhold Appropriated Funds." Clarence Clyde Ferguson, Jr. 14 Buffalo Law Review, Fall, 1964, p. 1.

Federal responsibility for discrimination in employment and federal power to withhold appropriated funds as a weapon against discrimination.

"Government Fair Employment Agencies: An Appraisal of Federal, State and Municipal Efforts to End Job Discrimination." Paul H. Norgren. 14th Annual Meeting of Industrial Relations Research Association, December 28 and 29, 1961, p. 120.

Summary of results of study of federal, state, and municipal fair employment practice commissions, and of laws and executive orders which they administer.

"[illegible] Job Ahead for the President's Committee on Equal Employment [illegible]." Jerry R. Holleman. 12 Labor Law Journal, July, 1961, p. 618.

[illegible] President's Committee on Equal Employment Opportunity [illegible] to those working in [illegible] review of enforcement power granted to the committee.

"Fa[illegible]
Union, [illegible]
J. Rosen. [illegible] Law Journal, May, 1964, p. [illegible]
Obligations [illegible] to individual members and the [illegible]
sent their members fairly.

"The 'Fair Representation' Doctrine: An [illegible]
Union Racial Discrimination?" Neil M. Herring. [illegible]
Spring, 1964, p. 113.
Evolution of the doctrine of fair representation by unions and [illegible]
weapon against union racial discrimination.

"Labor Law—Duty of Fair Representation—NLRA Section [illegible]
Melvin S. Katzman. 45 Boston University Law Review, Winter [illegible]
Comment on NLRB decision in *Independent Metal Workers* [illegible]
union discrimination against an employee because of race violates [illegible]
of fair representation and interferes with employees' rights.

"Labor Law—National Labor Relations Act—Union's Duty of Fair [illegible]
resentation Not Implicit in Section 7—Discrimination Based on Race [illegible]
Union Membership Not a Violation of Section 8(a)(3)." 18 Vanderbilt [illegible]
Review, December, 1964, p. 268.
Review of *NLRB v. Miranda Fuel Co.* in which a U. S. Court of Appeals [illegible]
that a union's duty of fair representation is not implicit in Section 7 [illegible]
NLRA.

"Labor Law—National Labor Relations Act—Violation of Duty
of Fair Representation Is an Unfair Labor Practice.—*Independent Metal*
Workers (NLRB 1964)." 78 Harvard Law Review, January, 1965, [illegible]
Review of NLRB decision in *Independent Metal Workers* case, holding that
union discrimination against an employee because of his race is a violation of
the duty of fair representation and constitutes unlawful union interference
with employees' rights.

"National Labor Relations Board Affords Administrative Relief for
Racial Discrimination." 33 Fordham Law Review, May, 1965, p. [illegible]
Review of NLRB's decision in *Independent Metal Workers, Locals 1 and* [illegible]
(Hughes Tool Co.), in which the Board withdrew certification of two [illegible]
on the ground that they practiced racial discrimination when denying [illegible]
membership.

"The National Labor Relations Board and the Duty of Fair Representation: *National Labor Relations Board v. Miranda Fuel Co.*" George [illegible]
Hellrung. 13 Catholic University Law Review, May, 1964, p. 171.
Union's duty to represent empolyees fairly discussed in terms of [illegible]
Fuel Co. case.

"NLRB Decertifies Racially Segregated Union Locals." [illegible]
Cherkis. 39 New York University Law Review, December, [illegible]
Review of NLRB determination, in *Independent Metal Workers* [illegible]
1 and 2, rescinding the certification of two segregated [illegible]
they had executed contracts based on race and had [illegible]
to perpetuate racial discrimination.

"[illegible] of Judicial [illegible]
sentation in Collective Bargaining." [illegible]
Cosmetic Law Journal, August, 1966, p. 469.

[illegible] Sub-Contracts; The Roles of City Government and [illegible] Groups." Madison S. Jones. 14 Buffalo Law Review, Fall, [illegible]

[illegible] the role of a City Commission in the field of human rights in a [illegible] industrial metropolis, as well as the role of private citizen [illegible] trade groups operating to achieve progress toward the goal of [illegible] employment opportunities.

"The President's Committee on Equal Employment Opportunity." Hobart [illegible] Jr. 16 Southwestern Law Journal, April, 1962, p. 101.

[illegible] of Executive Order creating President's Committee on Equal Employ[illegible] Opportunity and prohibiting discrimination in employment on account [illegible] color, creed, or national origin, emphasizing questions created by [illegible] of the Executive Order to government contractors.

"The Role of Law in Equal Employment Opportunity." Frank Cloud [illegible]. 7 Boston College Law Review, Spring, 1966, p. 417.

Discusses the role of law in the area of equal employment opportunity, pres[illegible] provisions for complaint and enforcement procedures, and the future of [illegible] in this area.

[illegible] PRACTICES

"Employment Tests and Discriminatory Hiring." Robert M. Guion. 5 Industrial Relations, February, 1966, p. 20.

Examines the employment tools designed to screen and test job applicants that tend to be discriminatory.

"Fair Testing for Fair Employment." Floyd L. Ruch. 67 Insurance, June 25, 1966, p. 27.

Recommends appropriate testing in fair employment to obtain qualified per[illegible] whose performance on the job will be so satisfactory that there will seldom be a need for discharge. Examines the Civil Rights Act to deter[illegible] how it might affect an employer's testing, hiring and promotion prac[illegible]. Comments on the impact of World War II on testing and the advantages of factored tests.

"Race, Employment Test and Equal Opportunity." Philip Ash. 8 Industrial Management, March, 1966, p. 8.

Examines the factor of group difference in performance in employment testing standards and the problem of developing testing standards to create equal employment opportunities without social discrimination.

PROCEDURE

"Equal Employment Opportunity: Procedure Under Title VII of the Civil Rights Act of 1964." Richard K. Berg. 55 Illinois Bar Journal, April, 1967, p. 654.

[illegible]ints practicing attorneys with the procedures, policies and problems [illegible] under Title VII of the Civil Rights Act of 1964.

"Processing Employment Discrimination Cases." Alfred W. Blumrosen. [illegible] Labor Review, March, 1967, p. 25.

[illegible] the elimination of employment discrimination under Title VII of [illegible] Civil Rights Act of 1964 and the individual right to litigate. Concen-

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Considers the question of whether the courts should be held to [illegible] diction in enforcing compliance with the provisions regarding the [illegible] fair representation in ordinary civil actions, assuming the NLRB or Civil Rights Act remedies may apply to a given case, or whether such jurisdiction should be held to be preempted by exclusive competence of the Board of the machinery of the Civil Rights Act?

"Race Discrimination and the National Labor Relations Act: The Brave New World of *Miranda*." Michael I. Sovem. 16 New York University Conference on Labor, 1964, p. 3.

NLRB enforcement of the duty of unions to represent their members fairly and to refrain from practicing racial discrimination.

"Racial Discrimination and the NLRB: The *Hughes Tool* Case." Bernard J. Long, Jr. 50 Virginia Law Review, November, 1964, p. 1221.

Review of NLRB's decision in *Hughes Tool Co.*, holding that a union's racially motivated failure to process an employee's grievance violated its duty of fair representation and constituted illegal restraint and coercion.

"Unfair Representation as an Unfair Labor Practice." 63 Michigan Law Review, April, 1965, p. 1081.

Examination of recent decisions in which NLRB found that unions committed unfair practices by failing to represent their members fairly.

"Union's Duty of Fair Representation and the Civil Rights Act of 1964." Herbert L. Sherman, Jr. 49 Minnesota Law Review, April, 1965, p. 771.

Theory of accommodation in administration of federal labor statutes and Title VII of the Civil Rights Act, with conclusion that many remedies developed under labor statutes to ensure fair treatment by unions should stand.

"Union's Duty of Fair Representation: Does It Exist and Who Should Enforce It." Robert L. Berchem. 9 Villanova Law Review, Winter, 1964, p. 306.

Inquiry as to whether unions have a duty to represent members fairly, the extent of any such duty, and problems of enforcement.

"A Union's Duty of Fair Representation: Historical Support for Administrative Enforcement." Gerald J. Adler. 2 Houston Law Review, Winter, 1965, p. 373.

Court and administrative enforcement of the duty of unions to represent employees fairly as developed under the Railway Labor Act and the NLRA.

GOVERNMENT CONTRACTS

"Federal Procurement and Equal Employment Opportunity." N. Thompson Powers. 29 Law and Contemporary Problems, Part 2, Spring, 1964, p. 468.

Discussion of requirements that equal employment opportunity provisions be included in government contracts.

"Government Contracts and Fair Employment Practices." Paul [illegible] gren, 29 Law and Contemporary Problems, Part 1, Winter, 1964, p. 2[illegible].

Development of presidential policy requiring that government contracts [illegible] tain a provision committing the contractor not to discriminate [illegible] employee or applicant for employment because of race, creed, color or [illegible] origin.

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CRA-Suits-VII

2 Memphians Air Complaints In N.Y. Meet

Tennessean 2-2-69

NEW YORK (UPI)—Two Negroes from Memphis, complaining they were unable to get news coverage in their home city, held a news conference in Manhattan yesterday to charge the Firestone Tire and Rubber Co. with discrimination.

Oddie L. Turner said he was fired from his $157-a-week job as a tire assembler for defying de facto segregation practices in Firestone's Memphis Plant.

WITH TURNER at the Hotel New Yorker news conference was the Rev. F l Currie, pastor of Christ Missionary Baptist church in Memphis, who said he paid the $400 cost of the New York trip out of his own pocket.

"They (the Memphis news media) seem to go along with racist practices," said Currie. "We came to New York because we couldn't get any coverage back there."

A spokesman for Firestone in Memphis said Turner's case was due for arbitration Jan. 24 and that Turner failed to show up. He said union officials were unable to locate the worker.

In Memphis Ed Ray, editor of the Press-Scimitar, said this was the first he had heard of any complaint against Firestone. And Charles H. Schneider, editor of the Press-Scimitar, said, "I feel sure if they had called a similar news conference in Memphis it would have been reported."

WILLIAM SORRELS, managing editor of the Memphis Commercial Appeal, declined comment.

Turner, 27, an army veteran who fought for a year in Vietnam, said he was fired Jan. 13 after he complained about a white foreman calling him "nigger."

But Turner, who had worked at the plant for 21 months, said the real reason he was dismissed was for using restrooms and cafeteria tables usually used by whites and for trying to organize black employes.

TURNER CHARGED that "Negroes at Firestone are working under the most inhuman discriminatory practices of any firm in the South." Of 1,300 black workers at the plant, he said, less than one-half of 1% were employes in any of the 518 white collar jobs.

Turner said the top management of Firestone claimed to know nothing about discrimination in Memphis.

"After writing the main office in Akron, Ohio," he said, "we received a reply saying that the problems should be solved on the local level."

Turner said management at the Memphis plant was also out to get him because he was trying to organize black workers to seek improvement in working conditions through a group called the Unity Progressive League.

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2-15-69

Job Bias by Employer Held Labor Law Breach

An employer who practices discrimination against employes because of their race or national origin may be held guilty on an unfair labor practice, the U.S. Court of Appeals for the District of Columbia ruled in a precedent-setting decision.

A panel of three judges upheld a National Labor Relations Board order against Farmers' Cooperative Compress of Lubbock, Tex., directing the firm to bargain with the Packinghouse Workers—now merged with the Meat Cutters—on wages and working conditions, "including the condition of race discrimination" against Negroes and Latin Americans.

The court went further, however, and said the NLRB should have decided whether the company's discriminatory policies were in themselves violations of the labor law. It sent the case back to the NLRB for hearings and a decision on the question. The court itself made it clear that it viewed the company's discrimination as a violation which should be stopped.

The decision was the first court ruling that the NLRB has jurisdiction over civil rights violations by employers under the National Laber Relations Act.

The judges said that "although we have found no cases in which an employer's policy of discrimination . . . was alleged to be a violation" of the labor act, there is no reason "why employer discrimination is exempt from Board scrutiny" since charges against unions are not exempt.

The Packinghouse Workers won an election in 1965 at the company's West Texas cotton processing mill and was certified as the legal bargaining agent for production and maintenance employes.

After more than eight months of attempted bargaining, the union called a strike in September 1966 after filing unfair labor practice charges against the employer.

The strike was still in effect when the NLRB on Jan. 23, 1968, ordered the corporation to stop its unlawful practices, to bargain in good faith with the union over economic matters and its discriminatory hiring and promotion policies, and to reinstate the strikers with backpay.

The union appealed the board's order, arguing that the NLRB should also have found that the company's policies toward minority group employes were themselves violations of the labor act. The company claimed the NLRB order was not supported by the evidence, and the board asked the appeals court to uphold its order without change.

The court ruling upholding the union's position was written by Judge J. Skelly Wright. It cited such company practices as giving a few white employes guaranteed weekly salaries, filling the highest-rated jobs "largely with whites" at $1.80 an hour, paying white weighers more money than Negroes or Latins for the same work, giving overtime work to whites and refusing it to others.

Illinois U. Honors State Labor Chief

Champaign, Ill.—The University of Illinois honored State AFL-CIO Pres. Reuben G. Soderstrom at a public ceremony here for his decades of service to labor education and the university.

Soderstrom, state federation head for 38 years, was given a certificate of appreciation by UI Pres. David Dodds Henry and Dir. Melvin Rothbaum of the university's Institute of Labor & Industrial Relations to highlight the 20th annual Central Labor Union conference.

AFL-CIO News 2/15/69

Unions Offer to Help Train Negro Youth

Miami Beach, Fla. –AP– AFL-CIO construction unions, frequent targets of racial bias charges, proposed Wednesday to help train Negro slum youths for jobs under the federal model cities program.

"We should work with and help train these youths when they apply and show serious intent," said President C. J. Haggerty of the AFL-CIO building and construction trades department.

Labor Secretary W. Willard Wirtz, who ran into criticism over federal efforts to forbid union racial discrimination, said Haggerty's plan might solve the problem, if the unions spelled out details and followed through.

"How grand a thing it would be if this could be carried forward, so that you took and kept the initiative on this, instead of the government having to appear once more in the policeman's role," Wirtz told leaders of the 18 construction unions at their annual convention.

Some leaders of the AFL-CIO building trades unions, which represent most of the nation's four million construction workers, sharply objected to labor department proposals to require regular reports on apprenticeship opportunities for Negroes and other minority groups.

"This department calls upon the administration to desist from further proposals aimed at breaking down and weakening the institutions of apprenticeship and to explore more seriously with this department constructive methods by which Negroes might be helped to enter the existing system of apprenticeship," said plumbers union President (and former Milwaukeean) Peter T. Schoemann in a proposed resolution.

Unions – Discrimination
1-13-70

Minority-Hiring Plan for Construction Hit Again by Meany; '67 Version Upheld

By a WALL STREET JOURNAL *Staff Reporter*

WASHINGTON — The gulf between organized labor and the Nixon Administration widened as AFL-CIO President George Meany lashed out at the Labor Department's controversial" Philadelphia Plan," which sets specific minority-hiring goals for Federal contractors.

But backers of the plan received a boost yesterday as the Supreme Court left standing a lower-court decision upholding a 1967 Federal minority-jobs plan. The 1967 plan required contractors to assure Negroes of equal job opportunities on Federally assisted construction projects in the Cleveland area.

Mr. Meany, in a hard-hitting address before the National Press Club, charged that the Philadelphia Plan is "an effort to offset this Administration's civil rights shortcomings as a whole." The plan, he predicted, "will fall of its own dead weight."

"It's about served its purposes so far," Mr. Meany declared; "it has gotten on all the front pages." He decried the "Madison Avenue" promotion of the plan by the Labor Department, charging "there is no substance to it whatsoever."

Reiterating many charges he made last fall before the AFL-CIO Building and Construction Trades Department biennial convention, Mr. Meany declared that the Philadelphia Plan is an Administration attempt to make a "whipping boy" of the building trades unions. He claimed, for example, that the Labor Department's office of Federal contract compliance hasn't imposed the same minority-hiring standards on Southern textile mills.

Current Efforts Cited

There isn't any Philadelphia Plan for the textile mills, Mr. Meany suggested, because it "wouldn't fit in with the Southern strategy, I'm afraid." The labor leader was referring to speculation that President Nixon is consciously wooing political support in the South as part of a basic strategy for winning reelection in 1972.

Ridiculing the Philadelphia Plan as " a concoction and contrivance of a bureaucrat's imagination," Mr. Meany contended that organized labor already is participating in minority-group recruitment and training programs that offer a better solution to the job-discrimination problem.

Organized labor's efforts to expand and accelerate its use of Federally funded programs to attract minority-group apprentices, and related programs for upgrading and training nonwhite workers for union membership, have been endorsed by the Labor Department, he emphasized.

Mr. Meany claimed that, among other things, current union minority-group apprenticeship programs, known as Operation Outreach, cover entire areas while the Philadelphia Plan deals only with Federally assisted construction projects in an area.

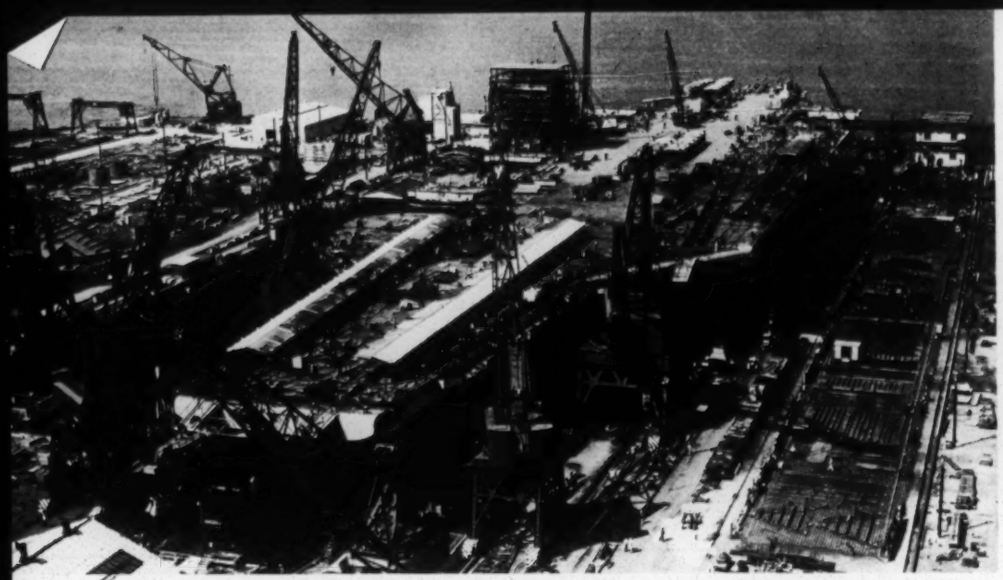
In the two years, or so, since Operation Outreach was launched, 5,304 apprentices have been indentured by participating uions, Mr. Meany said. Of these, 4,998 have gone into building-trades unions, including 2,910 in high-paying jobs as iron workers, electricians, plumbers and sheet-metal workers.

In his wide-ranging attack on the Philadelphia Plan, Mr. Meany charged that some of the Labor Department's information is inaccurate concerning the extent of minority-group participation in six high-paying building trades in the Philadelphia area.

Plan Is Explained

He also contended that the Labor Department has refused to give union officials the names and addresses of minority-group workers in the area that the agency has described as being "unemployed, but qualified for employment."

First proposed in its present form last June, the Philadelphia Plan requires contractors on Federally aided construction projects of more than $500,000 in the Philadelphia area to agree that at least 19% of their work force, in six high-skilled building trades, will comprise minority-group members by 1973. An attempt by a coalition of Southern Senators and Congressmen and the AFL-CIO to kill the plan last



Newport News Shipbuilding's naval work was delayed by an OFCC "show-cause" order.

LABOR

Employment
Wilson

Minority hiring under new attack

Mendel Rivers challenges job fairness as a danger to defense work

The Nixon Administration's commitment to minority hiring is about to undergo its severest test in the area where the Administration has tried hardest—defense contracting. The challenge comes from the powerful House Armed Services Committee, which questions whether hiring goals hurt defense production. And the agency charged with backing the commitment is openly afraid of the outcome.

Adversaries in the battle are South Carolina Democrat L. Mendel Rivers, the committee's chairman, and the Labor Dept.'s Office of Federal Contract Compliance (OFCC), which requires federal contractors to fulfill legal requirements on equal employment opportunities or lose their contracts. This power is widely regarded as the government's strongest weapon in the minority hiring effort.

OFCC is convinced that Rivers wants the minority hiring requirements for defense contractors waived and fears that he may succeed. Defense contracts constitute two-thirds of all federal contract work and many of them—especially the shipyard contracts now under OFCC fire—are held by Southern companies. In political terms, this explains both Rivers' interest in the topic and OFCC's fear that President Nixon's "Southern strategy" may triumph over his declared intention to promote job rights for blacks. The hiring requirements were set by former President Johnson in the executive order which created OFCC. President Nixon has stressed his support of the order.

Road to ruin. Even a partial Rivers victory would hamstring OFCC "in the one area where the Administration has really made an effort to end discrimination," according to OFCC's director, John L. Wilks. It would weaken the campaign against holdout defense contractors and undermine OFCC campaigns that depend on less precisely defined legal powers, he said. He cited the Philadelphia Plan to enforce quotas for minority hiring in federal construction as an example. If Rivers can force the government to back down where its position is strongest, Wilks reasons, OFCC and related agencies will be unable to make their rulings stick anywhere else.

Rivers went into action late last month with the appointment of a special subcommittee to investigate the impact of the government's minority hiring regulations on national security. "While recognizing that our labor force must be treated upon an equal basis, the imposition of new programs under the equal employment program can have an effect upon the price, quality, and delivery of weapons vital to our national security," Rivers said.

OFCC's Wilks sees Rivers' maneuver as a threat to enforcing compliance.

On May 21, the Rivers subcommittee questioned Stuart Broad, director of equal opportunity policy for the Defense Dept. Main subject: the 27 show-cause orders that have been issued against defense contractors on projects ranging from construction of a nuclear aircraft carrier to minor subcontracting work. These orders instruct the contractors to show cause why their contracts should not be cancelled for failure to comply with minority hiring requirements. Security at this opening session was so tight that Pentagon officials reported privately that they barely were able to persuade the subcommittee to admit the deputy commander of Broad's division.

Then the subcommittee members—Chairman Charles H. Wilson (D-Calif.), W. C. Daniels (D-Va.), and Donald D. Clancy (R-Ohio)—held two days of closed-door interviews in California with executives of aerospace companies: Lockheed, Hughes, General Dynamics, and North American Rockwell.

Window dressing. Administration officials involved with civil rights enforcement regarded the California trip as window dressing. They predicted—accurately, as it turned out—that shipbuilding would follow aerospace on the subcommittee's agenda, and that the subcommittee's specific target would be the show cause order against the Newport News Shipbuilding & Dry Dock Co. There, OFCC has delayed work on the nuclear carrier Dwight D. Eisenhower until the company changes its hiring and promotion policies. An estimated $500-million to $800-million in construction contracts is at stake.

Hearings on Newport News opened Tuesday with testimony by the Equal Employment Opportunity Commission. The Labor Dept., the Navy Dept., Newport News Shipbuilding, and the U. S. Civil Rights Commission were due to testify on succeeding days, with only the Labor Dept. hearing open to outsiders—at Labor Secretary George Shultz's insistence.

If the special subcommittee's investigation concludes that equal employment policy is holding up defense contract delivery—a foregone conclusion in OFCC's view—the committee chairman could move to invoke existing law on national security to waive hiring requirements on defense contracts. The next move presumably would be up to the Defense Secretary Melvin R. Laird. Realistically, the buck would probably be passed to President Nixon. In any case, the Secretary's decision to invoke national security could not be appealed, according to Wilks. ■

W-S-J
6/30/70

NLRB Urged to Force Employer to End Minority Bias; Action Would Be a First

By a WALL STREET JOURNAL *Staff Reporter*

WASHINGTON – A National Labor Relations Board trial examiner recommended that the National Labor Relations Act be used for the first time to force an employer to take specific steps to eliminate discriminatory employment practices.

Acceptance of the examiner's decision by the five-member NLRB could make the board a major factor in the efforts of minority-group workers to wipe out job discrimination.

The decision by trial examiner Alba Martin dealt with complaints by the United Packinghouse Workers union that Farmers' Cooperative Compress, a Lubbock, Texas, cotton-processing concern, had committed an unfair labor practice by discriminating against nonwhite workers.

Prodded by the Federal courts, the NLRB had agreed last October to determine whether Farmers' Cooperative was discriminating and devise an appropriate remedy if any job bias were discovered. The NLRB, in its initial decision dealing with the union's complaint, had held that the employer had failed to bargain in good faith about certain discriminatory practices. But the board had declined to invoke its cease and desist power to prescribe a remedy.

Order by Court

The Supreme Court last November refused to review an appeals court decision holding that discrimination against minority workers interferes with employes' bargaining rights and thus violates the National Labor Relations Act. The appeals court had ordered the NLRB to reopen the job discrimination aspect of the case and "devise an appropriate remedy" if bias were found.

Going back into the case at the court's direction, the trial examiner concluded that Farmers' Cooperative "has engaged in, and is engaging in, certain policies and practices of invidious racial discrimination." He recommended that the company "cease and desist" and take "affirmative action designed to eliminate these policies and practices."

The examiner found that the employer discriminated in the transfer of minority workers from low-paying to higher-paying jobs. In one instance, a Latin American was "temporarily" assigned to a higher-paying job without getting any increase in wages. Thus, he was receiving $1.50 an hour for the same task for which non-Latin white employes were being paid $1.80 an hour.

Trial examiner Martin recommended that all Farmers Cooperative workers transferred to a high-paying job must receive the higher wage starting the second consecutive day in the new assignment. The workers would continue to receive the higher wage as long as they continue to fill the higher-rated job.

Pension Plan

The examiner found that the eligibility standards for the concern's retirement pension plan were also discriminatory. Among other things, workers had to be employed for 120 consecutive months to be eligible.

Mr. Martin concluded that "it was exceedingly more difficult for a Latin to qualify for a pension than an Anglo because so far fewer of them had year-around employment and so many more of them had only seasonal employment."

To remedy this situation, he recommended that the cooperative be ordered to amend the plan so a worker would qualify for benefits as long as he had been employed for a total of 120 months.

Labor Department Setting Up Unit to Spur Local Solutions to Construction Job Bias

Labor 7-6-70. Employment Dis #6

By BYRON E. CALAME
Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON — A special Labor Department task force is quietly being mobilized to spur development of "hometown solutions" to the problem of job discrimination in the construction industry.

The Office of Federal Contract Compliance has borrowed 30 staffers from three other Labor Department divisions to man the new task force being built around a regular field staff of 10 regional coordinators. Top compliance office officials say the task force is scheduled to begin moving into certain cities this week.

Insiders at the compliance office confidently predict that the task force will be able to produce voluntary construction industry equal employment opportunity plans in at least 19 cities by the end of the year.

Former Labor Secretary Shultz last February warned local contractors, unions and minority leaders in 18 target cities to speed development of voluntary area-wide plans or face the imposition of specific hiring goals by the compliance office.

The compliance office has imposed mandatory minority hiring plans on Federal contractors in Philadelphia and Washington in recent months. Officials had hoped that this "reflection of a determination to get results" would spur other areas to come up with a hometown solution.

But the progress has been slow, the insiders admit. Of the 18 target cities cited by Mr. Shultz last February, only Boston, Denver and Indianapolis have devised voluntary plans. Moreover, of six cities singled out for priority attention, only Boston has come up with a hometown solution.

Agreements in Two Cities

The remaining five priority cities are likely to be among those hit first by the task force. They are Detroit, Atlanta, Los Angeles, Seattle and Newark.

Labor Secretary Hodgson said last week that tentative agreements have been hammered out in two of the 18 cities—St. Louis and New Orleans—and are awaiting ratification by the contractors, unions and community groups involved. "Four other cities are currently in the process of negotiating construction agreements," he said.

Tentative agreements had been reached in Chicago and Pittsburgh before Mr. Shultz announced the target cities last February. The Pittsburgh plan, however, has since encountered a number of delays. Compliance office officials say privately they may have to step in at some point and impose a plan. Peoria, which isn't on Mr. Shultz' list, is the only other area that has come up with an acceptable voluntary plan.

To speed the beginning of the task force, top Labor Department officials decided to lend the compliance office 30 staffers from the Manpower Administration, Labor-Management Services Administration and the Wage and Hour Administration. The compliance office is in the process of adding 17 persons to its staff, and has requested an additional 26 slots in the current fiscal year. But since recruiting and training the added staff will take some time, department officials decided to use borrowed help to get the task force off the ground faster.

Task force members will be briefed here this week in training sessions to be conducted by top compliance office officials. The sessions will stress the need to get all contractors and unions to participate in the voluntary agreements. To be acceptable, the hometown solutions must be area-wide agreements covering all construction work. The compliance office can impose specific minority hiring goals only on contractors doing work on Federally assisted projects.

Meany Approves Concept

Though AFL-CIO president George Meany and other union leaders have bitterly attacked the compliance office's controversial "Philadelphia Plan," they have repeatedly indorsed the idea of voluntary area-wide minority hiring schemes. Their reasoning is that minority hiring requirements that apply only to Federal contractors won't help increase the overall number of nonwhite building tradesmen in an area.

The attitude of local building trades union leaders is a key element in the development of a hometown solution, says Arthur Fletcher, Assistant Labor Secretary for Wage and Labor Standards. He says Government procurement procedures, in effect, give unions a veto over the use of Federal funds for the training programs built into most minority hiring plans.

"If the local labor unions don't sit down and agree that the training is needed there, then we can't use Federal funds to start a training program," Mr. Fletcher complains. "The hometown solution won't work as long as they have that prerogative and exercise it, unless there are some changes in attitude," he declares.

Compliance office officials insist that the new drive to produce hometown solutions doesn't mean the agency is going to be more willing to accept less stringent voluntary hiring plans.

A voluntary agreement reached in Buffalo and supported by Gov. Rockefeller, for example, still hasn't been accepted by the compliance office. And a proposed equal employment plan submitted by a group of New Jersey construction contractors also has failed to gain the agency's approval.

W-S-J 12/15/70

BREWERY BIAS? Government job bias officials officially warn Anheuser-Busch its minority-hiring practices don't meet the standards set for Federal contractors. To remain eligible to bid on future contracts, the brewery must correct its hiring deficiencies by Dec. 31 or show it's made a good faith effort to do so.

* * *

HOLLYWOOD DWARFS seek liberation along with the womenfolk. They had long enjoyed the privileges of membership in the Screen Actors' Guild without having to join or pay dues. But, attacking the waiver as discriminatory and patronizing, they've demanded and won the right to pay dues and become full-fledged members.

* * *

MEDICAL FRINGE: More firms give employes with ailments such as diabetes and epilepsy memberships in Medic Alert, a California foundation. The employes get a special emblem to wear that alerts any doctor treating them to call the foundation. It provides doctors and civil authorities with facts about any member's "hidden" medical problems.

* * *

POSTAL UNIONS pick a chief negotiator to speak for them in bargaining sessions beginning Jan. 20 with the U.S. Postal Service. He's Bernard A. Cushman, a Washington labor lawyer and arbitrator. Mr. Cushman will represent the seven unions that will be at the bargaining table.

* * *

UNION PRESIDENCIES turn over at a faster rate, a Government study shows.

A just-released Labor Department survey of 172 unions finds that 40% of the presidents had been elected for the first time in 1966 or later. Turnover was particularly high in 1968, when 30 persons were elected for the first time. The 1968 survey shows nearly 67% of the labor organizations had presidents elected since 1960. Death and retirement accounted for most of the changes in union leadership.

Presidents elected prior to 1956 were reported by 16% of the unions. The longest tenure in office is held by Eric W. Lindberg of the Machine Printers and Engravers Association, who assumed office in 1934. The leaders of about 61% of AFL-CIO unions and 74% of independent unions first took office in 1961 or later.

Twenty-five unions, covering 20% of the responding union membership, permitted five-year presidential terms, the legal maximum. Most had two or four-year terms.

* * *

THE CHECKOFF: A Philadelphia local of the Retail Clerks Union negotiates for its members a unique benefit—time-and-a-half pay for vacations. . . . The National Labor Relations Board upholds the action of the Washington-Baltimore Newspaper Guild in fining members for crossing another union's picket lines. . . . The International Brotherhood of Electrical Workers produces a color film for TV airing entitled "Where to?" dealing with the problem of communications and understanding among diverse segments of American society.

Joblessness Rise Dims '72 Outlook By Administration

December Rate Up 0.1 Point From November to 6.1%; '71 Average 5.9% Top Since '61

Factory Workweeks Grew

1.10.72

By a WALL STREET JOURNAL *Staff Reporter*

WASHINGTON — With the nation's jobless rate up again in December, Nixon administration officials talked more cautiously about what to expect in 1972.

At 6.1% of the labor force, last month's seasonally adjusted unemployment rate was up 0.1 percentage point from November, when it had edged up by a like amount. This puts the rate just 0.1-point below the nine-year high of 6.2% reached a year ago (see chart on page one). At that time some administration spokesmen were expressing confidence that the high-water mark had been reached and predicting that the jobless rate might drop as much as 1.5 percentage points in 1971.

Instead, the rate remained practically unchanged, averaging 5.9% for the entire year, the highest such rate since 1961, when it averaged 6.7%. The average rate for all 1970 was 4.9%, up from 1969's average of 3.5%.

Hodgson Retreats

At this time last year, after the December 1970 rate spurted to what later would be restated at 6.2%, Labor Secretary James D. Hodgson claimed that "within the next 12 months it is reasonable to expect about 1.5-point reduction in the rate" to about 4.5%.

But this year Mr. Hodgson was more modest in his outlook for the new year. He conceded that the December jobless figures "reflect a continuation of about the same level of both employment and unemployment. They serve to demonstrate the need for the employment-stimulating measures proposed by President Nixon last August and not acted on by the Congress till late December." The Labor Secretary said that "as the effect of these measures takes hold during the year we can anticipate that improvements will occur in both these figures."

Other administration officials were equally cautious. One key economist conceded the December increase in the jobless rate was "nothing to cheer about," but said it was "not out of line with what might have been expected." He said the latest level simply continues the pattern of about 6% joblessness that prevailed all through 1971, which was "obviously why we've had to adopt new policies."

The more rapid gains in output sought for 1972, he added, ought to be enough "not only to match the growth in the labor force" with additional jobs, "but to cut somewhat into the rate of unemployment." The December report "doesn't make the problem look different" than it did a few months ago, he contended, and thus in itself isn't expected to prompt a more expansionary budget policy than already planned.

A "Plus" Sign

A "plus" sign in the report, he claimed, is that the average workweek in factories lengthened to the longest since December 1969. This is often a prelude to greater hiring in business recovery periods, he observed, but conceded it also could reflect at least a temporary reluctance of companies to take on more workers as sales pick up.

The Labor Department said the average workweek for factory workers jumped to 40.7 hours in December from 40.2 in November and 39.9 in December 1970. But on a seasonally adjusted basis, the department said, the increase was only to 40.3 hours last month from 40.1 in November and 39.8 in December 1970.

The number of persons unemployed rose to a seasonally adjusted 5,216,000 last month from 5,150,000 in November. Total employment also edged upward, rising to an adjusted 80,133,000 from November's 80,022,000. But the civilian labor force grew at a faster rate on an adjusted basis; it reached 85,349,000 in December, up from 85,172,000 a month earlier.

Jobless rates for most major groups in the labor force showed little or no change in December. One exception was that for Negroes, which spurted to 10.3% from 9.3% in November. The jobless rate for white workers dropped to 5.4% from 5.7%.

Teen-Age Rate

The teen-age jobless rate climbed to 17.5% in December from 17% the month before. But the rate for adult men remained unchanged at 4.4%. The jobless rate for married men dropped to 3.3% from 3.4%, while the rate for married women remained unchanged at 5.8%.

For workers covered by state unemployment insurance programs, the unemployment rate dropped to 4.1% from 4.2% in November.

The unemployment picture for workers in most major occupation and industry groups also was little changed in December. But the jobless rate for construction workers rose to 11.2% in December from November's 8.9%. The rate for factory workers edged up to 6.9% from 6.8%. The rate for workers in the wholesale and retail trade fields remained unchanged at 6.6%, while the rate for employes in the transportation and public utilities fields dropped to 4.2% from 4.4%. For workers in finance and service industries, the rate decreased to 4.9% from 5.2%.

Joblessness inched up for white-collar workers, to 3.7% in December from 3.6% in November, while for blue-collar workers the jobless rate remained unchanged at an adjusted 7.5%.

Payrolls Grow a Bit

Nonfarm payroll employment, which excludes farm, household and self-employed workers, increased slightly to a seasonally adjusted 71,104,000 last month from 70,981,000 in November. The rise resulted almost entirely from the return to payrolls of striking workers in mining and transportation, the labor department said.

During all 1971, total employment rose 490,000 to an average of 79,120,000. The gain compared with increases of 730,000 in 1970 and nearly two million in 1969. The department attributed the small rise to a "lack of growth" in the first half of 1971. Last year's gain was concentrated among 20-to-24-year-olds, mostly young men returning to civilian life after leaving the armed forces.

Average hourly earnings of rank-and-file factory workers rose sharply to $3.69 in December from $3.60 the previous month and $3.47 in December 1970; their average weekly earnings increased to $150.18 in December from $144.72 the month before and $138.45 in December 1970.

Average overtime for manufacturing workers last month edged up to an adjusted 3.1 hours from three hours in November.

Job Bias Bill With Cease, Desist Powers Seen Requiring Two-Thirds Senate Vote

2/2/72

By a WALL STREET JOURNAL Staff Reporter

WASHINGTON – The hard-fought Senate battle over job discrimination may reach its climax in the next few days.

It has become apparent that a two-thirds majority will be needed for a bill giving the Equal Employment Opportunity Commission power to use cease-and-desist orders against employers it deems guilty of discrimination in hiring and promotion. If backers of the plan can't show that strength, they may have to settle for lesser enforcement powers.

The Senate voted yesterday 48 to 37 on a proposal to cut off debate on the pending EEOC bill. This was nine short of the two-thirds needed under Senate rules for ending a filibuster. A new attempt is expected later this week, and some participants think it could be decisive.

An Old Filibuster

The Senate has already decided in series of very narrow votes to let the EEOC order an employer to stop discriminating, with such cease-and-desist orders subject to review by federal appeals courts. The Senate thus has rejected a rival plan approved by the House authorizing the commission to take an accused discriminator to a district court where the judge would issue an remedial orders. This plan is strongly backed by business organizations and, to a lesser extent, by the Nixon administration.

Though they've won the battle in a technical sense, Senators backing the cease-and-desist bill find final passage of the measure blocked by a Southern filibuster. As filibusters go, it's an odd one. The leaders, Senators Sam Ervin (D., N.C.) and James Allen (D., Ala.), have been permitting votes on amendments to other sections of the bill, instead of using the more common tactic of talking to delay any action at all. But a filibuster has more or less been declared, putting the bill's sponsors on notice that a two-thirds vote will be needed at some point before passage.

The situation looked so unusual yesterday that Sen. Alan Cranston (D., Calif.), one of the bill's liberal supporters, said it would be "unfair" for his allies to cut off debate "at such a relatively early stage in the discussion." He voted against the debate-ending motion, but said he might switch later on.

Candidates Absent

Several other switches are possible in future votes, but the bill's sponsors may be sunk if members of the Senate's touring announced Democratic presidential candidates don't return; yesterday all five were absent.

Even if the cease-and-desist bill finally passes the Senate, it must somehow be reconciled with the significantly different House version before the EEOC gets any strengthened enforcement power. The agency currently can use only mediation in cases arising from the 1964 Civil Rights Act's ban on job discrimination because of race, sex or religion.

Organization Drive

Ired by Unemployment, The Nation's Engineers Move Toward Unionism

Some Join AFL-CIO Groups; Many Arrange to Bargain Through Independent Units

'Bitter, Angry and Betrayed'

2/22/72

By TERRY P. BROWN

Staff Reporter of THE WALL STREET JOURNAL

They haven't yet taken to forming picket lines, but the nation's engineers are becoming increasingly, and often militantly, pro-union. Many of the men and women in the engineering community who until only recently scorned union affiliation as "nonprofessional" now are turning to organized labor for inspiration and assistance.

"The engineer now realizes he's vulnerable and expendable like everyone else," asserts Jack Golodner, director of the Council of AFL-CIO Unions for Scientific, Professional and Cultural Employes. "We're getting a good response to our organizing efforts."

The unionization movement among engineers has been under way for several years, but until recently it was on a limited scale. There are over one million engineers in the U.S., and about 5% belong to the two dozen independent professional unions that have for years engaged in collective bargaining at various companies. A few belong to affiliates of the major trade unions. But union men and engineers agree the 5% figure is expected to increase, probably dramatically, in the near future.

There is much activity already. New independent unions are being formed by engineers around the country. Major AFL-CIO affiliates are launching organization drives. Union-like political action groups are being established to press for resumption of funding on a major scale of government technical programs. And, perhaps most important, several of the old-line engineering technical societies, to which almost all engineers belong, are broadening their traditional educational and standard-setting roles and are setting up union-like economic programs for their members.

Cutbacks and Joblessness

The underlying reasons for all this activity are clear-cut. Cutbacks in government aerospace and defense budgets, coupled with a soft economy, have caused the highest unemployment in the engineering profession since the Depression. About 35,000 engineers are on the jobless rolls—more than three times the number in the early and middle 1960s. And it's estimated that as many as 65,000 more are working only part-time in their profession or have taken nonengineering jobs.

The salaries of employed engineers, to be sure, continue to be relatively high (the median salary for an engineer with 10 years of experience stands at more than $15,000). Nevertheless, the plight of their unemployed colleagues has had a profound psychological effect on even those with good engineering jobs. "Many of these guys got into engineering in the '50s and '60s because government and industry told them they'd always have secure and well-paying jobs," says Prof. Paul H. Thompson of Harvard Business School. "Now they are bitter and angry, and they feel they have been betrayed."

This sense of betrayal has been especially keen on the West Coast, with its large concentration of technical and research-oriented firms. Consequently, unions have made their greatest inroads among engineers in this area. Last November, for example, the Southern California Professional Engineering Association, an independent union representing more than 5,000 employes of McDonnell Douglas Corp. in California and Tulsa, missed affiliating with the Marine Engineers Beneficial Association (AFL-CIO) by less than 1% of the members' vote (a majority vote was required).

Changing Times

"Even though the AFL-CIO lost, you can't ignore the fact that almost half of our mem-

Organization Drive: Joblessness Turns Engineers Toward Unionism

Continued From First Page

more enlightened attitude we might be forced to move" in the direction of big-time organized labor.

According to labor sources, nearly all engineers currently in collective bargaining units belong to independent unions; fewer than 1% of the nation's engineers are members of the large, traditional union groups. And despite the growing interest among engineers in organization, some still remain wary of affiliation with any bargaining group at all.

In an attempt to overcome this wariness, the California Society of Professional Engineers, a state chapter of the National Society of Professional Engineers, last June devised an alternative for engineers who want representation but who don't want to join a labor union. The alternative consisted of an "affiliation agreement" with the Western Council of Engineers, an Oakland-based independent union representing more than 700 publicly employed engineers.

The affiliation agreement, among other provisions, has opened discussion channels between the society, which under state law can't engage in collective bargaining, and the council, which can bargain collectively. According to Robert J. Kuntz, a member of the society's executive committee, the agreement means that "the professional society can provide a common meeting ground for both employe and employer, without the profession falling into the hands of organized labor."

The autonomous engineering societies, which number more than 150 and whose membership comprise most of the engineers in the U.S., have traditionally limited their activities to the publishing of technical journals and the establishment of ethical and educational standards. Until recently, the societies shunned involvement in nontechnical problems affecting their members for fear of losing their tax-exempt status as educational and scientific nonprofit organizations. But charges from members that the societies have tended to be management-oriented have caused several groups to shed their previous indifference toward economic issues.

As one case in point, the 66,000-member American Society of Civil Engineers prepared and distributed to employers a manual outlining certain principles of employment ranging from recruitment to working conditions. The society also plans to distribute specific salary guidelines later this year.

"We hope employers will voluntarily adopt these guidelines," says W. H. Wisely, the society's executive director. "We're not turning into a union, but we're taking a more realistic role—and maybe we can bring economic improvements through responsible leadership."

Other national technical societies are involved in pension-plan studies, job-assistance services and career-development programs. The 100,000-member American Chemical Society, for example, recently established an independent, nonprofit corporation that is attempting to set up a national pension system for professional engineers and scientists; the system would also be "portable," meaning that benefits would continue when an engineer moved from one job to another. (No such system currently exists, and many engineers have recently lost accrued benefits after being laid off or after they switched jobs.)

In a different attempt to skirt their limitations, some societies have recently affiliated with the National Society of Professional Engineers, a nontechnical group that lobbies in Washington for legislation to aid its 65,000 full-time members. Last year, the Institute of Electrical and Electronics Engineers arranged for its members to join the National Society on either a full-time or associate basis (associate members can't vote). And other societies have since followed suit in order to give their members a say in nontechnical matters affecting the profession.

But some engineers want more from their societies. "A society must do more than set up study committees and then sit around and wring hands," asserts Irwin Feerst, a consulting electronics engineer from Massapequa Park, N.Y., and a member of the Institute of Electrical and Electronics Engineers. Mr. Feerst recently ran on a write-in campaign for the IEEE presidency on a platform primarily designed to make the society more active in protecting the economic status of its members. Although he was overwhelmingly defeated, he says he entered the election late and has subsequently gained increasing support. "I'm going to win next time, and the society will never be the same," he asserts.

Outside of societies, independent unions and large labor organizations, a number of engineers have formed ad hoc activist groups to lobby on their own for legislation providing employment for engineers and to support political candidates sympathetic to the technical community. While such groups are currently small and scattered, many of their members say their effectiveness is evidenced in an increasing number of congressional bills involving engineers and the White House's push for programs such as the proposed space shuttle.

"Engineers have to overcome their parochialisms and work for a single powerful voice," says the spokesman for one group. "We'd like to see the National Society of Professional Engineers assume this role, but it presently only represents about 6% of the profession. In the meantime, we have to work to improve our national technical posture."

The ultimate effectiveness of such groups—and, indeed, of the entire organization effort among engineers—won't be known for some time to come and will be influenced to no small degree by external factors such as the number of graduating engineers arriving each year at the job front. An encouraging sign in this area is the fact that, according to estimates by the American Society for Engineering Education, national freshman engineering enrollments last fall dropped more than 16%. This statistic caused some observers to predict the current surplus of engineers may become a shortage by the end of the decade.

For the time being, however, the technical community feels the job outlook for engineers will remain bleak—a factor that should provide increasing impetus for nascent organization efforts. "It looks as though fields like housing, transportation and pollution-control aren't likely to take up the employment slack that's been created," says Prof. Eli Ginzberg, a Columbia University manpower expert. "We have a permanent softening in the demand for engineers that looks like it will last for several years."

an independent union representing more than 5,000 employes of McDonnell Douglas Corp. in California and Tulsa, missed affiliating with the Marine Engineers Beneficial Association (AFL-CIO) by less than 1% of the members' vote (a majority vote was required).

Changing Times

"Even though the AFL-CIO lost, you can't ignore the fact that almost half of our members wanted to join a larger, more powerful labor organization," says Robert Leventhal, executive director of the Southern California group. "Five years ago, you couldn't find 5% of any engineering group that would favor joining organized labor."

Encouraged by growing unionist enthusiasm among engineers, the AFL-CIO has stepped up its recruiting efforts. The American Federation of Technical Engineers (AFL-CIO) is currently attempting to organize some 2,000 engineers and scientists at the Huntsville, Ala., facility of the National Aeronautics and Space Administration. The same group is also seeking recognition from San Francisco officials to represent the city's publicly employed professional engineers.

The United Auto Workers union at its April convention will consider by-law revisions that would allow professional organizations to retain their own name and much of their autonomy after UAW affiliation. In the meantime, the UAW has kicked off an organizing drive among professional engineers at several aerospace concerns in the Los Angeles area.

Many engineers, however, continue to remain wary of large labor organizations and fear being swallowed by groups that they consider too large, too impersonal and too unresponsive to individual initiative. Furthermore, they say, they dislike such hallmarks of traditional labor union contracts as job classifications and seniority. For these reasons, many engineers desiring representation of some sort have turned to independent unions.

A number of the independent unions have been formed in the construction and design industries, which employ large numbers of engineers. In San Francisco, for example, the three-year-old Organization of Architectural Employes last fall won the right to bargain for some 150 employes at three out of nine firms where elections were held. And in Detroit, the Architectural-Engineering Employes Union (less than a year old) is currently trying to organize some 5,000 engineers and architects and will soon call elections at several major firms.

"We're receiving advice from organized labor," says James J. Skalski, the Detroit group's chairman. "We'd like to stay independent, but if management doesn't develop a

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Battling Bias

4/25/77 Return to GS EVO PNO AH

Job Panel Won't Use Its Expanded Powers Before Winter, Then May Move Vigorously

By ELLIOT CARLSON
Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON — The menacing new teeth Congress has given the government's job-bias battler aren't likely to bite before next winter.

But when they do, they'll be snapping not only at businesses and labor unions but also at local governments and colleges.

The new bite is the authority given the Equal Employment Opportunity Commission to haul wrongdoers into court. Until the law took effect last month, the EEOC could only seek to conciliate job-discrimination disputes or, on rare occasions, refer the matter to the Justice Department for possible court action.

Now, for the first time since the EEOC was set up in 1965 to end employment discrimination based on race, color, religion, sex or national origin, the controversial agency has some enforcement power of its own: the power to go into federal court itself and seek remedies against defiant discriminators.

Nor is that all. The EEOC's jurisdiction was enlarged to include employes of state and local governments and educational institutions. And next year it widens even further to include companies and unions with 15 or more employes or members, down from 25 at present. The new law also extends the religious prerogatives of jobholders, gives aggrieved parties more time to file complaints and empowers the agency to provide new kinds of legal help to complainants.

Many experts believe the changes make it possible to all but wipe out the most rooted job practices that discriminate against blacks, women and others. But EEOC men caution that nothing much will change for a while. "The full impact of the new law won't be felt for at least two or three years," says EEOC Chairman William H. Brown III.

Lots of Targets

It probably will be Christmas before the EEOC even files its first suit. The agency is short on people and money and keeps getting further behind in its work. Its current backlog: 30,000 active cases. And so far the five-member commission hasn't figured out just how it will use its new powers.

But whatever strategy it adopts, the EEOC won't have any trouble finding targets. Some 200 companies and unions have been resisting conciliation efforts for at least a year. Chairman Brown hints, though, that the commission may concentrate on five industries it previously has focused on: trucking, airlines, utilities, banking and insurance.

Among likely targets are trucking concerns and Teamster Union locals with which the EEOC has been trying to negotiate conciliation agreements for years. The agency has been seeking to persuade truckers and locals to make it possible for more blacks to get long-haul assignments. EEOC men say that blacks generally have been confined to locals providing drivers for lower-paying city driving, while drivers in predominantly white locals get the more lucrative long-distance work.

Conciliation efforts also have proved difficult in the steel industry, where, according to agency investigators, blacks invariably get the "hot jobs" while white workers get slots in less fiery parts of the plants. Compounding the trouble, they add, is that black laborers get snared in "lines of progression" that keep them from ascending to more desirable jobs.

EEOC officials note that in the past many companies and unions resisted conciliation efforts because the chances of being hauled into court were slim. Out of 131 cases referred by the EEOC to the Justice Department since 1965, only 21 were ever taken to court.

"Before the new law," says Eduardo Pena, the EEOC's director of compliance, "people could tell us to go to hell, and there was nothing we could do about it." But now, he says, "We've got a bigger stick. Parties know that if we have to, we can slap them into court."

Wherever it strikes, the EEOC will be aided by recent developments in the law, the result of both Justice Department and private suits brought under Title VII of the Civil Rights Act of 1964. For example, courts have held that any employment practice that has a disparate impact on minority workers creates a presumption of job bias and places on the employer the burden of proving nondiscrimination.

"The law as it has developed under Title VII is very favorable to plaintiffs," says William Gould, a Harvard law professor. "The only reason for the negligible impact on corporate hiring practices is that so few suits have been filed."

It remains to be seen, however, how successful the EEOC will be when it applies to state and local governments the precedents established in cases involving private employers. But one thing is clear: the EEOC's moves in its new areas of coverage will stir bitter controversy. "Wait till local people find out that the EEOC has power over hiring at their police and fire departments," warns Herbert Northrup, professor of industry at the University of Pennsylvania. "That'll raise more hell than busing."

Critics charge that unfamiliarity with local problems should disqualify the EEOC from grappling with such matters. EEOC men concede their ignorance. "Our first task will be to get information so we can pinpoint the trouble spots," says Peter Robertson, director of the EEOC's office of state and community affairs. "But we've got a lot of hunches."

Massive Discrimination

Indeed, it appears to Mr. Robertson that "discrimination against women in higher education is so massive that you'd have to be blind not to see it." He suggests that, for one thing, the bunching up of women teachers in primary grades may result from deliberate bias on the part of private and public colleges.

"We'll have to study the effects of advanced-degree requirements on hiring," says Mr. Robertson. "If it turns out they exclude more women than men from college teaching posts, such institutions may well have to prove that the Ph.D. is a valid job requirement."

Almost as controversial is the new law's provision holding that employes can't be fired for refusing to work on Sundays because of their religious beliefs or, for that matter, refusing to get a replacement. The new clause grows out of a case in which the Supreme Court, by a 4-to-4 vote, let stand a lower-court ruling that Reynolds Metals Co. hadn't discriminated on religious grounds when it fired a member of Faith Reformed Church. The man, a die repairman, claimed that working or getting a man to work for him on Sundays violated his religious convictions.

Under the new law, employers must make "reasonable accommodations" for such work-

file charges after the alleged discriminatory act. "Persons who are victims of bias are usually untrained laymen," explains Charles Reischel, an EEOC lawyer. "It often takes them a while to find out we exist. So you get cases where people can't file charges because they're a couple of days too late."

None of these developments can be expected to ease the agency's backlog woes. In the fiscal year ending June 30, the EEOC's caseload is expected to swell 18%, to 44,000, a figure that may well double next year. In fact, out of 30,000 bias charges outstanding against various employers and unions when the new law took effect, a full two-thirds of those accused hadn't yet been informed of the fact. This situation prompted at least one new provision favorable to employers—the requirement that all parties accused of bias be notified within 10 days.

Needed: Money

Generally, the EEOC finds "reasonable cause" to believe bias exists in two-thirds of the charges it probes. But in less than half of these is it able to achieve a successful conciliation.

To crank up its new machinery, the EEOC shortly will ask Congress for money to hire trial lawyers. The agency won't say how many lawyers it's seeking, but observers doubt whether Congress will add more than 100 to the EEOC's existing staff of about 60. It's estimated that this would permit about 300 court cases a year.

Liberal critics scoff that this is paltry and that court procedures take too long, anyway. They insist the agency will never amount to much until it has the same power to issue cease-and-desist orders possessed by other Washington agencies, such as the Federal Trade Commission and the National Labor Relations Board. Congressional liberals originally sought such powers for the EEOC but later compromised with conservatives willing to give the agency only court-enforcement authority.

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Under the new law, employers must make "reasonable accommodations" for such workers, even to the extent of finding substitutes for them. The law specifies that failure to do so would be unlawful unless the employer could show such an accommodation would create an "undue hardship on the conduct of his business."

The Flight to the Suburbs

Another amendment to the old law may result in a number of new legal principles being established through court cases. Specifically, the law now permits civil-rights and other groups to bring complaints before the EEOC on behalf of employes who feel discriminated against. Thus, complaints need no longer identify the particular worker feeling aggrieved, adding protection against employer retaliation. And by finding people with grievances, groups will be able to bring before the commission issues they want tested.

One likely one: are employers guilty of discrimination when they relocate plants to suburban areas with few minorities? A few lawyers contend such transfers may be illegal if it can be shown they decrease job opportunities for blacks and other minorities. "Civil-rights groups have been pressuring us to raise this question," says Chairman Brown. "So you'll probably see it come up."

Complainants also will benefit from a provision doubling to 180 days the time they have to

First EEOC Job-Bias Suit Under New Act Names Marcor's Container Corp., 4 Unions

5/12/72

By a WALL STREET JOURNAL *Staff Reporter*

WASHINGTON — The Equal Employment Opportunity Commission brought its first job-bias suit under new powers Congress granted it earlier this year.

The suit, filed in a federal court in Jacksonville, Fla., charges Container Corp. of America, four international unions and six union locals with discriminating against women and blacks at the company's Fernandina Beach, Fla., plant.

Container Corp., a subsidiary of Chicago-based Marcor Inc., makes a variety of paperboard products and shipping containers. The unions charged were the International Association of Machinists, the International Brotherhood of Electrical Workers, the Brotherhood of Painters and the Pulp, Sulphite and Paper Mill Workers unions, plus six affiliated locals.

Unsuccessful Attempts

The EEOC said the suit follows unsuccessful attempts to conciliate complaints by Container Corp. employes and one of the five EEOC commissioners. Until March, the agency could seek to resolve job-discrimination disputes only through conciliation, although it could, on rare occasions, refer cases to the Justice Department for possible court action.

But two months ago Congress provided the agency with the power to go into federal court itself. Although EEOC Chairman William Brown III, in an interview in late March, said it probably would be winter before the EEOC filed its first suit, agency sources indicated yesterday the commission may well file other suits before the current fiscal year ends on June 30.

In the suit filed yesterday, the EEOC charged that both women and blacks were practically excluded from higher positions in all operations at the Container Corp. plant. According to the suit, blacks were "hired for and assigned to the less desirable, more arduous and lower-paying jobs" with least opportunity for advancement.

The suit also charges that among other things, the company, through employment practices that it permits, "locks black employes permanently into positions of inferiority," blocks their advancement by requiring them "to pass unvalidated tests" and "refuses to give black employes the same training opportunities it has given white employes."

According to the suit, the company "limits the employment of women to clerical positions, with the result that it pays its women employes considerably lower wages than its male employes."

Finally, the suit contended that the unions "aided and abetted Container Corp. of America in the performance of the discriminatory practices."

The EEOC's complaint specified 13 actions the court might order the defendants to take. These included a complete revision of seniority systems, special training for blacks and women, elimination of unvalidated tests, payment of back wages lost as a result of discrimination, hiring of blacks and women in a specified ratio and revision of union by-laws to protect black members.

Union Response

Union response ranged from indignation to bewilderment. A Painters union spokesman took issue with the EEOC's claim that it attempted to conciliate the complaint. "We never were approached by an EEOC conciliator in this case," he said. "I don't know what the merits of the charges are—and it's impossible to tell from reading the original EEOC decision in the matter."

"We are opposed to discrimination in any form," retorted a spokesman for the Machinists union. 'If discrimination exists in this case we're prepared to do whatever is necessary to comply with the law. There is no bar to blacks in this union. However, we have no control over the hiring practices of this employer."

Officials at the Brotherhood of Electrical Workers said they wouldn't discuss the case until they had read the suit. The Pulp, Sulphite and Paper Mill Workers union declined comment for the same reason.

EEOC Sues Teamsters And McLean Trucking On Racial Bias Charge

Firm Said to Discriminate Against Blacks in Hiring, Transfer; Union Alleged to Perpetuate Situation

9/15/72

By a WALL STREET JOURNAL *Staff Reporter*

WASHINGTON — The Equal Employment Opportunity Commission charged McLean Trucking Co. and the Teamsters union with discriminating against blacks in hiring and transfer policies.

In a suit filed in federal court in Memphis, the EEOC names as defendants McLean Trucking, Winston-Salem, N.C., which operates a terminal in Memphis; the Teamsters union; Teamsters Local 667, which represents most of the McLean employes at the Memphis terminal, and the Southern Conference of Teamsters, a Dallas-based association of Southern Teamsters locals.

The EEOC suit charges that the company discriminates by a failure or refusal to hire blacks on an equal basis with whites, especially as over-the-road drivers, and failure on refusal to hire or promote into supervisory positions or transfer blacks because of their race. The suit also alleges that the company maintains racially segregated job classification, transfer and seniority systems.

The complaint charges the union units with negotiating collective bargaining agreements that perpetuate discriminatory practices and with failing or refusing to take affirmative steps to correct the alleged policies. A spokesman for the Teamsters union declined comment on the suit.

In Winston-Salem, Paul P. Davis, president of McLean Trucking, said he hadn't seen a copy of the complaint and couldn't comment.

Last month the EEOC filed a similar suit against Local 667, the other Teamsters union units, and a Southern Trucking company, ET&WNC Transportation Co., Johnson City, Tenn.

Top Court to Rule on Listing Job Ads by Sex And Firm's Refusal to Hire a Black Activist

12/5/72

By a WALL STREET JOURNAL *Staff Reporter*

WASHINGTON—The Supreme Court agreed to rule on a pair of civil rights questions, one involving alleged sex discrimination and the other race bias.

The court will decide whether newspapers are guilty of illegal sex discrimination when they list help-wanted advertisements according to sex.

It will also rule whether an employer legally may refuse to hire blacks who have been arrested in civil rights demonstrations against the employer. The case involved McDonnell Douglas Corp.

The Sex Bias Case

The sex bias case grew out of a complaint by the National Organization for Women against The Pittsburgh Press. However, the American Newspaper Publishers Association intervened, saying that many other newspapers "utilize a system of classifying help-wanted advertising almost identical" to that of The Pittsburgh Press.

The newspaper listed its ads under the headings "Jobs-Male Interest," "Jobs-Female Interest" and "Jobs-Male-Female." The National Organization for Women filed a complaint with the Pittsburgh Human Relations Commission, charging that The Press was violating the city's ordinance barring sex discrimination in employment.

The commission and Pennsylvania courts found that the classification system violated the ordinance and held that The Press must utilize a help-wanted ad classification system without reference to sex.

The press and the ANPA sought Supreme Court review, arguing that the city ordinance violates newspapers' First Amendment rights. Further, they argued that throughout the case there wasn't any evidence introduced to show that a female had been refused a job advertised under the "male interest" heading or that a male had been denied a "female interest" job.

The Race-Bias Case

The race-bias case stemmed from a suit against McDonnell Douglas by Percy Green, a black activist.

Mr. Green was chairman of a civil rights group that demonstrated to call public attention to what it said were McDonnell's hiring policies. McDonnell told the high court that Mr. Green's group in 1964 stalled autos at McDonnell's St. Louis plant entrance and, as a result, Mr. Green pleaded guilty to the offense of obstructing traffic. McDonnell also said Mr. Green in 1965 participated in a "lock-in," in which some company employes were locked inside a building.

Three weeks after the lock-in, Mr. Green applied to McDonnell for a job as a mechanic and the company refused to hire him. He sued, charging that McDonnell had violated the 1964 Civil Rights Act by refusing to hire him "because of his involvement in civil rights activities."

A federal district court found that McDonnell's refusal was based on Mr. Green's participation and arrest in the auto stalling demonstration and therefore the refusal didn't violate the law.

The Federal Court of Appeals in St. Louis reversed the district court and remanded the case for trial. The appellate court ruled that an employer's refusal to hire a qualified black constitute illegal racial discrimination and held that McDonnell hadn't demonstrated that Mr. Green's civil rights activism would hurt his job performance.

The Supreme Court accepted McDonnell's plea for review of the appeals court's decision.

The high court is expected to hear and decide the sex and race bias allegations early next spring.

Philip Morris C...

W-S-J 1/23/73

BLS CONTROVERSY draws its first major nonpartisan assessment. The executive board of the Industrial Relations Research Association, a respected professional group, concludes the credibility of the Bureau of Labor Statistics has been "impaired" by Nixon's personnel switches and ban on the agency's press briefings on statistics.

* * *

MANAGEMENT TRAINING gets a much fatter slice of the corporate dollar. An American Society for Personnel Administration survey of over 200 firms shows training outlays surged to $263 a man in 1971 from $102 in 1966. Service companies posted the biggest increases.

* * *

SHOOTINGS OF POLICEMEN in New Orleans and New York fuel congressional support for federally subsidized group life insurance for public safety officers. Backers say officers often find purchasing insurance difficult and some employers unwilling to buy such coverage. One pending bill would aid up to 900,000 cops, firemen at a federal cost of $22 million a year.

* * *

HIRING PACE for teachers slackens further. Salary gains continue to shrink.

The number of elementary and high school teachers inched up only 0.7% this school year to 2.1 million, a National Education Association study estimates. That's about half of last year's increase and down sharply from the annual gains of 4% to 4.5% posted in the 1960s. The ranks of elementary teachers declined 0.2% this term, the second consecutive yearly decrease. W-S-J

Looking at pay, the NEA finds the average annual salary for a teacher rose 4.2% this school year to $10,114. The average pay boost was 4.7% last year, 7.3% for the previous school term. 1/23/73

Behind the slowing demand for teachers: the second straight year-to-year drop in U.S. school enrollment. The NEA says this year's enrollment fell 0.1% to 47.7 million.

NBC-Owned Stations In Washington Ruled Biased Against Women

1/31/73

EEOC Decision on Recruitment, Promotion, Leave Policy Opens Way for Suit Against RCA Unit

By a WALL STREET JOURNAL *Staff Reporter*

WASHINGTON—National Broadcasting Co., a unit of RCA Corp., has discriminated against women at its company-owned radio and television stations in Washington, the Equal Employment Opportunity Commission ruled.

The EEOC upheld several charges by 27 women employes of WRC-TV and WRC AM-FM radio that the stations failed to recruit and promote women into certain jobs including directors, announcers, until managers, film crew, editors, engineers and sales personnel. The decision noted that in a tally of 213 bargaining-unit positions, women held only 10 jobs; of the station's entire workforce, 20% are women.

The decision found that prior to 1971, NBC's "word-of-mouth method of recruiting and/or announcing vacancies was inadequate" to inform all persons, including women, of such openings, thus violating the Civil Rights Act of 1964.

Citing pay rates in several higher-paying jobs, the decision concluded the stations have denied women access to such jobs, and asserted the company's maternity leave policies and training opportunities also discriminate against women. Although the stations have one black supervisory-level employe, that person "supervises no one and receives the lowest rate of pay of all the other supervisors," the decision said. It found reasonable cause for a charge that the policies discriminate against blacks.

However, the commission found without merit charges that the stations harassed and retaliated against females for participating in women's rights activities, were unwilling to hire a female as administrator of press and publicity, and discriminated against women in hiring a sales person in 1971.

A spokesman for the group of women employes and their attorney said the EEOC's decision will be studied to determine what steps will be most effective in securing compliance. Both the women and the EEOC could file lawsuits seeking a remedy for the violations.

The decision was based on charges filed in early 1971 with the EEOC, the Federal Communications Commission and the Office of Federal Contract Compliance.

Brunswick Expects to Hit Goal of 15% Rise in '73 Net

SKOKIE, Ill.—Brunswick Corp. expects to attain its goal of at least a 15% rise in earnings in 1973, J. L. Hanigan, chairman, told analysts.

The executive added that Brunswick had purchased about one million of its own shares and expected to acquire more. Recently, its directors authorized the company to buy up to 1.5 million of its shares. As of the end of 1972, the company had 18.7 million shares outstanding.

For 1972, the company earned $34.8 million, or $1.86 a share, on revenue of $633.8 million.

Sunday Nov 26

Racial Bias in Labor

Racial bias in the American labor movement has a freshly strengthened foe in the national labor relations board, thanks to the United States supreme court.

By declining to review two lower court test cases, the high court, in effect, gave the NLRB power to issue orders to halt union discrimination against Negro members. This, in turn, should spur union leaders to be more color blind in representing the interests of cardholders.

The nature of the test cases, involving an Alabama local of the United Rubber Workers and two Texas locals of the International Longshoremen's association, illustrates the virtue of NLRB intervention. In the Alabama case, the NLRB found the local had failed to press Negro membership demands for desegregation of plant washrooms, showers and dining rooms and for back pay after elimination of a discriminatory seniority system. In Texas, the ILA had chartered two locals, one white, one Negro, to represent Gulf Coast longshoremen and allowed its district council to allocate 75% of available work to the white local.

There is, of course, some danger that the high court's action will expose union leaders to unjust charges from some disgruntled members under the guise of "unfair representation." However, leaders have invited government action by neglecting the racial intolerance that has so long tarnished unionism. They should heed men like Jerry Wurf, president of the American Federation of State, County and Municipal Employes union, who said just the other day "The labor movement has not done enough for minority members. It needs to do something drastic."

Nor does one have to look south to find a piece of the problem. A partial survey in Wisconsin recently found that only 12 of 2,091 apprentices in building trades apprenticeship programs were Negroes. While there is some truth in the contention that Negroes either don't apply for membership or lack the skills to meet union standards, the argument cannot be stretched to cover so glaring a disparity.

Unions, as well as management,

BREAKING THE CREDENTIALS BARRIER

by S. M. MILLER

A Ford Foundation Reprint

Mr. Miller is a program advisor in the National Affairs Division of the Ford Foundation. The following address was delivered before the American Orthopsychiatric Association, in Washington, D.C., March 23, 1967. Additional copies may be obtained by writing the Ford Foundation, Office of Reports, 320 East 43rd Street, New York, N.Y. 10017. SR/26

Education has in the past helped make our society more democratic by emphasizing qualifications rather than connections. In this way, it has freed us considerably from the rule of nepotism and arbitrariness. Paradoxically, however, this same insistence on education is now becoming a barrier to democracy – particularly to our national effort to remake the social class structure of this country by reducing the number of its poor and underprivileged.

We have built this barrier through our emphasis on credentials. Indeed, we have become a credential society, in which one's educational level is more important than what he can do. People cannot obtain jobs that they could well fill because they lack educational qualifications. Negroes who dropped out of the educational steeplechase before obtaining a high-school diploma cannot get jobs. Employers do not feel that they are discriminating against these dropouts; they merely regard them as "unqualified." And they persist in their beliefs despite a growing body of evidence, analyzed by Ivar Berg at Columbia University, that the higher-educated have a worse record than the poorly educated at every occupational level – more absenteeism, turnover, dissatisfaction, and probably lower productivity. Indeed, few companies even know the connections between the educational level of their employees and their performance. They have not bothered to probe their records to find out if their beliefs accord with the results of their practice.

I focus on the exclusion of the low-educated, but the processes that we are concerned about build Chinese walls of exclusion around an increasing number of occupations. We have a new guild system of credentials, licenses, certificates – largely built on the base of education – which keeps people out of many occupational channels. There is increasingly, for many occupations, only one route in – that taken when young. Failing to take that route bars one forever from the possibilities of that occupation.

It is assumed that these credentialing procedures assure a better product – that those who receive the credentials can do much better in the occupation than those who do not; that those who successfully go through the steps needed to gain the credentials are better fitted for the occupation than those who are not interested in doing so or fail in the prescribed climb.

I submit that we do not know if these two assumptions are true. To some extent they are undoubtedly untrue. And a broader assumption – that those who do not go through credentialing activities are unfit for the demands of the occupation – is clearly inaccurate. All of us know of individuals who cannot get jobs that they would be able to perform well because they lack the appropriate credentials – whether it is a high school diploma or a Ph.D.

The Reasons for Credentialism

Schools today are not a humanizing or an educational force as much as a credentialing agency, sorting people out who do not fit into the regular channels of educational development. Schools function to certify that someone is not harmful rather than to develop the potential of all. Many of the poverty and job-training programs serve the same function.

Why is credentialism growing? One reason is that we like to assume that our world is rational and scientific. We invest confidence in the present structuring of occupations as optimal; then the question becomes how best to fit people into these wisely constructed occupations.

Then we presume that we know enough to sort out "potential" and "ability" from their opposites. Consequently, we repose an enormous misplaced confidence in testing and educational achievement, even when we have quivers of doubt about their "real meaning." Objective measures seem to remove irrationality and discrimination in favor of universally applied, objective rules. Where there has been oversupply of labor and talent, then processes of exclusion on

some basis will occur. But when shortages occur as now in many professions, maintenance of exclusion as the core process is obviously peculiar. Such peculiarity is undoubtedly based on some fear – a fear of having to make choices and exercise judgment.

This fear is related to the third reason for the spreading tide of credentialism. Increasingly, the results and achievements are difficult to measure in a service-growing society. Norms of production output are difficult to use in the professions or in government service. Ambiguity of purpose further compounds the measurement problems. If 70 per cent of patients seeing a physician have no ascertainable medical reason for being there, how does one measure the achievement and productivity of the physician? Our uncertainty about what is the product and how to measure effectiveness throws us back to the input – that is, what is the training of the occupational incumbent?

A fourth reason for emphasizing exclusion is the "marshal's baton" syndrome. Napoleon asserted that his military prowess was based not only on his kitchens but on his promotion outlook – every soldier carried a marshal's baton in his knapsack, ready to jump into a command position. In many occupations and organizations, the notion, at least for men, is frequently to employ only "top-notchers" who can move to the peak of the pyramid. Yet the possibilities of moving to the top are slim indeed. In many organizations there is enormous turnover; only a very few stay long, and yet the notion is of "long-distance promotability." Furthermore, as Robert K. Merton has pointed out, there is no possible definition of "top-notchers" nor an adequate number of them, so that organizations and professions are doomed to feel that they are being short-changed in their share of "top-notchers." The important thing in this context is that the "marshal's baton" syndrome serves to make it appear wise to exclude many, even when talent and ability are in short supply. And certainly it caters to the yearning for prestige to be able

to say that the profession or organization has only top-qualified people.

A fifth reason for credentialism is the importance of social appearance. As organizations and professions not only become more uncertain about criteria or performance, but require more intricate "teamwork," getting along with others, appearing "mature," and more acceptable to the public to be serviced, the desirability of insisting on educational credentials grows. For the credentials certify not educational achievement, but personal serviceability – that one knows how to get by, conform, manage. The educational failures – at whatever level – are social failures, bad risks.

Suggestions for Change

Does my attack on credentialism imply that there should be no standards of training, no qualifications for entrance into occupations? I do not think that these are the implications, but I do think my analysis implies the following:

There should be a general downgrading of the importance of education as the major credential. Experience and performance should gain greater importance. Many people will not be seriously considered for a job because they lack educational credentials; prospective employers will not even pause to investigate whether the low-educated can perform well. The absence of certificates results in automatic exclusion. Individuals should be judged on what they can do rather than where and how long they have gone to school.

If we treated experience and performance seriously, civil service regulations would be changed so that low education was not an automatic bar to many positions. Testing would be downgraded in favor of trying people in jobs and then assessing their performance. Since much of the job training today is not relevant to work, there should be a strong movement toward "Jobs first, training later." The absence of this practice means that many minority group members are now serving lifetime sentences of low-

income and unemployment for their educational delinquencies.

"Dropout" is a label assigned at age sixteen; it persists through a lifetime. The consequence is that individuals who may have outgrown the issues which propelled them out of schools or who now have demonstrated and developed considerable skill are still economically disenfranchised because of their youthful educational difficulties. Once a dropout, always a dropout. As in many other aspects of American life, we need a de-labeling procedure which takes the curse off individuals who once ran afoul of conventional styles and were labeled and cast aside – whether the label is "dropout," "delinquent," or "mental patient."

We need deepened awareness of and respect for the abilities of those who have educational difficulties. We should not believe that our educational hurdles infallibly pick those who should be successes and unerringly cast aside those who should be failures. As we increasingly face the manpower problems of scarce talent, the great hope will be in the cultivation of talents among those who are now disadvantaged.

I do not wish to imply that every poor individual deserves and can use a marshal's baton. But many can. The failure is in cultivating these talents. We have much to learn here that we shall not learn if we persist in the new fashion of denouncing poor families for their deficiencies as educational environments. We then excuse the schools for their failure to learn how to adapt to and develop different varieties of students.

The first step of liberation from the shibboleths of invincible ignorance is to recognize the educational and occupational potential of many who have difficulty with educational systems as they are presently conducted.

We need new channels of credentialing and new points at which credentials can be expanded. While I am eager to see reduced emphasis on educational credentials, I am realistic enough to know that this kind of

change is slow. Consequently, we must make it easier for individuals to obtain educational credentials.

Today, if one does not get twelve or sixteen or eighteen or twenty years of education in the orthodox way of continuous immersion without a break in the apparatus of formal education, one has much reduced chances of gaining credentials.

We should more effectively develop school programs and procedures so that once out does not mean permanently lost. Education and training will be increasingly a discontinuous process for the highly-educated in American society, as they will need new kinds of education at various points in their careers. The same attitude should prevail towards those who have not successfully weathered the educational system to high school or college graduation or beyond. They should be in practice re-entering and benefitting from education and training at various points in their lives.

To some extent the poverty programs are new credentialing systems in our society. Experience in the Job Corps or in the Neighborhood Youth Corps or in Manpower Development and Training Act programs may not be primarily important in terms of providing skills. Rather, employers may be more willing to hire youth who have gone through one of these self-selection and molding systems. Neighborhood Youth Corps experience may be a new way of getting a credential which employers will accredit and accept.

The Second-Chance University

By multiplying the number of credential channels, we make it easier for individuals to gain them. Those rejected by our educational system at age sixteen might be able to get needed credentials at age eighteen, twenty-two, or thirty. One should have second, third, fourth chances and ways of getting credentials. The more different ways of getting credentials, the fewer the people who would fail to get some brownie points needed for acceptance into the main economy.

What is needed is the idea of a Second-Chance University which permits "dropout" adults to get further and more useful opportunities to get credentials. Experience should be given educational credit; courses should be more relevant to activities — liberal-arts education need not be taught in traditional ways in order to reach traditional ends. While there is need for a formal structure to facilitate re-entry into the educational atmosphere, there is also need to recharge that educational atmosphere so that it is more hospitable and useful to those who have found the established educational practices less than useful or stimulating.

Every credential system should have an escape clause which permits the unusual person to be admitted to the realm of the elect. As professions tighten their qualifications, there is usually a "grandfather clause" which exempts oldtimers from meeting new qualifications. Similarly, at least 5 per cent of each year's entrants into a profession or other highly credentialed occupation should be individuals who have "qualified" in nonusual ways — by taking tests without the traditional educational prerequisites, or by getting credit for enriched experiences, for example. Some collective bargaining contracts have a similar provision: the company is allowed to hire back after a cutback up to 10 per cent of the labor force without paying attention to seniority; the other 90 per cent of the labor force must be rehired according to seniority. The company is permitted some margin of choice and selectivity to meet its production needs.

Without a minimum percentage, it is unlikely that a "creative minority" could in practice obtain unusual entrance into a field. Arbitrariness and favoritism could be avoided by a blue-ribbon panel of decision-makers.

The need here, as in so many other parts of our society, is for making pluralism possible in a complex society. We need a variety of social inventions to provide the structure and the reality of pluralism.

We should not assume that the present

structuring of occupations is optimum. Many jobs, for example, call for too many different kinds of skills and too many time-consuming tasks; they should be broken down into finer tasks for many hands. Many jobs, too, should be enlarged so that those holding them can accept greater responsibility.

The emerging position of the nonprofessional is interesting here. The tasks of a professional job—like those of a social worker or nurse or teacher—can often be broken down into smaller units and combined in ways that permit less trained people to perform them. Sometimes the recombination produces services which the professional was not able to provide. These new positions could reduce the great unmeetable demand for professional services. With the tightening up of educational qualifications, it will be increasingly difficult to turn out an adequate number of professionals. As a consequence, the role of professional should increasingly be that of making it possible for less trained people to do effective work.

But this rational role is moving very slowly. There are grave limitations on what nonprofessionals are allowed to do; there is the absence of a career structure that permits many nonprofessionals to move into the middle class and into the elite stratum of the professional activity.

Professionals are increasingly becoming the gatekeepers of the welfare state, deciding on "professional" grounds who receives what kinds of services and who is allowed to perform various services. The pivotal importance of professional and organizational services has led many of the New Left students to focus on the professionals as the "enemy." While the assault is overdone and frequently misguided, there is something to the view that professions are hardening into barriers rather than aids. The guild-like features of professional occupations frequently are more visible than their commitment to broad social concerns, though there does seem to be important growth here. The emphasis on "competence" and "quality"

frequently means a lack of attention to the poor or to those who do not easily fit into professional activities.

The slowness with which the nonprofessional is catching on—in being permitted to do broad jobs, in having chances to move up the occupational ladder—is indicative of the failure of professionals to reassess their roles today.

But I do not want to criticize professionals alone. For business deserves criticism here as well. Private enterprise could probably get needed labor (and at high productivity levels) if it restructured jobs so that the less trained could perform at least parts of them. The credentials problem is an issue vital to both the private and public sectors. The national interest of gaining decent employment for the low-educated and the poor could be joined with the private interest of profit.

In summary, we live in a pseudo-meritocracy where individuals are presumed to be selected for talent and placed into appropriate squares. Education becomes the major route to social mobility as the historic alternative routes are shut off. As social mobility becomes more important in our national policies, we narrow down the routes to it.

The general issue which the plight of the poor raises is that of a hardening and narrowing of society into fewer and fewer acceptable routes to economic improvement. We are slowly and rather hazily re-examining the core values and practices of our society. But we must press the search for equity and purpose rather than accept a patina of rationality through reliance on school processes in resolving our value choices.

VII. EMPLOYMENT

The banner under which the March on Washington took place on August 28, 1963, was "Jobs and Freedom," and many Negro writers stress the economic factors that are central to the demands of the Freedom Movement. The problem of Negro employment--and unemployment--has received much public and governmental attention ever since Fair Employment Practice regulations were promulgated during World War II. Their distinctly less than impressive effectiveness has been documented by Paul H. Norgren in his Toward Fair Employment. The resistance of certain unions and of Southern employers, coupled with the fearfulness, indifference, or lack of aggressive policy on the part of Northern employers at the same time that automation is eliminating unskilled and semi-skilled jobs, have meant that the Negro predicament daily worsens, especially where Negro labor is concentrated in Northern ghettos. With seventy-five percent of all Negroes in the labor market in the three lowest occupational categories, and these the categories often drastically affected by automation, with Negro unemployment rates substantially higher than those for white workers and jobs for Negro youth virtually nonexistent, the Negro is well aware that without a job any "Freedom" he achieves will remain illusory.

Despite the urgency of the situation, studies of Negro employment have remained very largely either statistical or concerned with regulatory action. There has, for example, been little recent analysis of Negro occupational trends. One can, however, anticipate that the creation of the Office of Economic Opportunity directed toward the total problem of poverty in the United States may stimulate the kinds of studies genuinely useful for understanding the dimensions of Negro economic disabilities.

1. THE LAW, THE COURTS, AND REGULATORY ACTION

Aaron, Benjamin, "The Labor-Management Reporting and Disclosure Act of 1959," Harvard Law Review 73:858-907 (March 1960).

Bamberger, Michael A., and Nathan Levin, "The Right to Equal Treatment: Administrative Enforcement of Antidiscrimination Legislation," Harvard Law Review 74:526-589 (January 1961).

Becker, William, "After FEPC--What?" Journal of Intergroup Relations 3:337-343 (Fall 1962). Discrimination in apprenticeship programs and its effect.

Berger, Morroe, Effects of Fair Employment Legislation in States and Municipalities, Staff Report, U.S. Senate, 82nd Congress, 2nd Session, Washington, D.C.: GPO, 1952.

Berger, Morroe, Equality by Statute: Legal Controls over Group Discrimination. New York: Columbia University Press, 1952. A study based on the New York State Law against Discrimination.

Birnbaum, O., "Equal Employment Opportunity and Executive Order 10925," University of Kansas Law Review 11:17-34 (October 1962).

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Bullock, Paul, Merit Employment: Non-Discrimination in Industry. Los Angeles: Institute of Industrial Relations, UCLA, 1960. A brief history of fair employment regulations, with a description of various federal and local programs.

"The Controversy Over the 'Equal Opportunity' Provisions of the Civil Rights Bill," Congressional Digest 43:67-96 (March 1964).

Cox, Archibald, "The Duty of Fair Representation," Villanova Law Review 2:151-177 (January 1957). Admonitions addressed to labor unions.

"Discrimination in Union Membership: Denial of Due Process Under Federal Collective Bargaining Legislation," Rutgers Law Review 12:543-556 (Summer 1958).

Donahue, Charles, "Equal Employment Opportunity," Federal Bar Journal 24:76-86 (Winter 1964). The author, Solicitor, Department of Labor, discusses inequities in hiring practices, and discriminative practices within certain unions.

Ellis, Greeley H., Jr., "The Constitutional Right to Membership in a Labor Union--Fifth and Fourteenth Amendments," Journal of Public Law 8:580-595 (Fall 1959).

"Employment Discrimination," Race Relations Law Reporter 5:569-592 (Summer 1960).

"Employment Discrimination: State FEPC Laws and the Impact of Title VII of the Civil Rights Act of 1964," Western Reserve Law Review 16:608 (May 1965).

"Equal Employment Opportunity," Hearings before the Special Subcommittee on Labor of the Committee on Education and Labor, October 23, 1961--January 24, 1962. U.S. House of Representatives, 87th Congress, 1st and 2nd Sessions, 1961, 1962.

"Equal Employment Opportunity in the United States: The Civil Rights Act of 1964," International Labour Review 90:377-379 (October 1964).

"Equal Opportunity in Apprenticeship Programs," Hearings before the Special Subcommittee on Labor of the Committee on Education and Labor, August 21-23, 1961. U.S. House of Representatives, 87th Congress, 1st Session, 1961.

Ginsburg, Gilbert J., "Non-discrimination in Employment: Executive Order 10925," Military Law Review 1961:141 (October 1961).

Groves, H. E., "States as 'Fair' Employers," Howard Law Journal 7:1-16 (Winter 1961).

Gutman, D., ed., "Discrimination in Employment and Housing: A Symposium," New York Law Forum 6:1+ (January 1960)

Hartman, Paul, Comparative Analysis of State Fair Employment Practices Laws. New York: Anti-Defamation League, 1962.

Hill, Herbert, et al., "Twenty Years of State Fair Employment Practice Commissions: A Critical Analysis with Recommendations," Buffalo Law Review 14:22-78 (Fall 1964).

King, Robertson L., "Protecting Rights of Minority Employees," Labor Law Journal 11:143-154 (February 1960).

Kovarsky, Irving, "Racial Discrimination in Employment and the Federal Law," Oregon Law Review 38:54-85 (December 1958).

Levitan, S. A., Youth Employment Act. Kalamazoo, Mich.: Upjohn Institute for Employment Research, 1963.

Lunden, Leon E., Antidiscrimination Provisions in Major Contracts, 1961. Washington, D.C.: U.S. Department of Labor, Bureau of Labor Statistics, Bulletin No. 1336, 1962.

Maloney, W. H., Jr., "Racial and Religious Discrimination in Employment and the Role of the NLRB," Maryland Law Review 21:219-232 (Summer 1961).

Mayhew, Leon Hinckley, "Law and Equal Opportunity: Anti-Discrimination Law in Massachusetts," unpub. doc. diss., Harvard University, 1963. A thorough examination of all ramifications of the Massachusetts Law.

Morgan, Chester A., "An Analysis of State FEPC Legislation," Labor Law Journal 8:478 (July 1957).

Norgren, Paul H., and Samuel Hill, with the Assistance of F. Ray Marshall, Toward Fair Employment. New York: Columbia University Press, 1964. An important work which includes a survey of racial discrimination arising either from management or union practices, and an examination and assessment of all FEP laws and executive orders. The authors also advance proposals for what they consider the most effective legislation, together with suggestions for improving the administration of laws and regulations.

Rabkin, Sol, "Enforcement of Laws Against Discrimination in Employment," Buffalo Law Review 14:100-113 (Fall 1964).

"Racial Discrimination and the Duty of Fair Representation," Columbia Law Review 65: 273-287 (February 1965). Racial discrimination is subject to the remedies of the National Labor Relations Act.

[This item was found unfoldered in the collection + added to this folder.]

PAGINATION INCORRECT

"Racial Discrimination on the Jobsite: Competing Theories and Competing Forums," UCLA Law Review 12:1186 (May 1965).

"Racial Discrimination in Unions," Temple Law Quarterly 38:311 (Spring 1965).

"Racial Discrimination in Union Membership," University of Miami Law Review 13:364-369 (Spring 1959).

Read, F. T., "Minority Rights and the Union Shop," Minnesota Law Review 49:227 (December 1964).

Ruchames, Louis, Race, Jobs, and Politics: The Story of FEPC. New York: Columbia University Press, 1953.

Screiber, Harry N., "The Thirteenth Amendment and Freedom of Choice in Personal Service Occupations: A Reappraisal," Cornell Law Quarterly 49:508-514 (Spring 1964).

Shirk, E. M., "Cases are People: An Interpretation of the Pennsylvania Fair Employment Practice Law," Dickinson Law Review 62:289-305 (June 1958).

Shostak, Arthur, "Appeals from Discrimination in Federal Employment: A Case Study," Social Forces 42:174-178 (December 1963). Study of appeals records in 27 cases, 1952-1962, in a Northeastern federal manufacturing center. Most of the cases involved the failure of Negroes to secure promotion; only one was decided in appellant's favor.

Sovern, Michael I., "The National Labor Relations Act and Racial Discrimination," Columbia Law Review 62:563-632 (April 1962). Author advocates continued legal pressure by means of federal laws on the grounds that "Substantial improvement in any sector of civil rights has a snowball effect."

Spitz, H., "Tailoring the Techniques to Eliminate and Prevent Employment Discrimination," Buffalo Law Review 14:79-99 (Fall 1964).

"State to Punish a Union Barring Negro Members," New York Times, March 5, 1964. Ruling of the State Commission for Human Rights that Local 28 of the Sheet Metal Workers International Association, in violation of state law, has excluded Negroes for 76 years.

"Toward Equal Opportunity in Employment," Buffalo Law Review 14:1+ (Fall 1964). Entire issue devoted to reports of a conference held at the University of Buffalo Law School.

Tower, John, "FEPC--Some Practical Considerations," Federal Bar Journal 24:87-92 (Winter 1964). The author, U.S. Senator from Texas, attacks general proposition that discrimination is illegal and maintains that FEPC has been given arbitrary power to "ram . . . racial quotas" down the throats of employers.

Weiss, L., "Federal Remedies for Racial Discrimination by Labor Unions," Georgetown Law Journal 50:457-477 (Spring 1962).

Woll, J. Albert, "Labor Looks at Equal Rights in Employment," Federal Bar Journal 24:98 (Winter 1964). The author, general counsel for the AFL-CIO, maintains that Titles VI and VII of the Civil Rights Bill are reasonable and provide ample opportunity for voluntary compliance.

2. PATTERNS AND CONDITIONS

Amos, W. E., and Jane Perry, "Negro Youth and Employment Opportunities," Journal of Negro Education 32:358-366 (Fall 1963).

Antonovsky, Aaron, and Melvin J. Lerner, "Negro and White Youth in Elmira," in Aaron Antonovsky and Lewis L. Lorwin, eds., Discrimination and Low Incomes. New York: New School for Social Research, 1959 (multi.).

Antonovsky, Aaron, and Lewis L. Lorwin, eds., Discrimination and Low Incomes. New York: New School for Social Research, 1959 (multi.). Studies under the direction of New York State Commission Against Discrimination.

Apprentices, Skilled Craftsmen and the Negro: An Analysis. New York State Commission Against Discrimination, 1960.

Apprenticeship Training in New York Openings in 1963. New York: Workers Defense League, 1963.

Babow, Irving, and Edward Howden, A Civil Rights Inventory of San Francisco: Part I, Employment. San Francisco: Council for Civic Unity, 1958.

Bancroft, Gertrude, The American Labor Force: Its Growth and Changing Composition. New York: Wiley, 1958. Statistics and description of trends and patterns since 1890.

Data on white and nonwhite components of the labor force considered in this changing context. A volume in the census Monograph Series, prepared for the Social Science Research Council in cooperation with the U.S. Department of Commerce.

The Banking Industry: Verified Complaints and Informal Investigations, New York State Commission Against Discrimination, 1958.

Baron, Harold, "Negro Unemployment: A Case Study," New University Thought 3:279-282 (September-October 1963).

Batchelder, A. B., "Decline in the Relative Income of Negro Men," Quarterly Journal of Economics 78:525-548 (November 1964).

Becker, Gary S., "Discrimination and the Occupational Progress of Negroes: A Comment," Review of Economics and Statistics 44:214-215 (May 1962).

Blalock, H. M., Jr., "Occupational Discrimination: Some Theoretical Propositions," Social Problems 9:240-247 (Winter 1962).

Bloch, Herman D., "Employment Status of the New York Negro in Retrospect," Phylon 20: 327-344 (December 1959).

"Bringing Better Jobs to Negroes," Business Week, November 3, 1962. An employment agency in Philadelphia which specializes in jobs for Negroes.

Buckley, Louis F., "Discriminatory Aspects of the Labor Market of the 60's," Review of Social Economy 19:25-42 (March 1961).

Buckley, Louis F., "Nonwhite Employment in the United States," Interracial Review 36:32-33 (February 1963).

Buckley, Louis F., "Youth Employment Problems," Interracial Review 36:174-175 (September 1963).

Carl, E. L., and K. R. Callahan, "Negroes and the Law," Journal of Legal Education 17:3: 250-271 (1964-1965). On the great need to increase the number of Negro Lawyers. Strong motivation, satisfactory qualifications, and likelihood of professional opportunity have in the past militated against attraction of Negro students to the law.

Chalmers, W. Ellison, and Nathaniel W. Dorsey, "Research on Negro Job Status," Journal of Intergroup Relations 3:344-359 (Fall 1962).

"Changing Status of Negro Women Workers," Monthly Labor Review 87:671-673 (June 1964).

Characteristics of 6,000 White and Nonwhite Persons Enrolled in Manpower Development and Training Act Training, Washington, D.C.: U.S. Department of Labor, Office of Manpower, Automation, and Training, 1963.

Cobb, W. Montague, "Not to the Swift: Progress and Prospects of the Negro in Science and the Professions," Journal of Negro Education 27:120-126 (Spring 1958).

Cohen, Albert K., and Harold M. Hodges, "Characteristics of the Lower-Blue-Collar Class," Social Problems 10:303-334 (Spring 1963).

Council of Economic Advisors, The High Cost of Racial Discrimination in Employment, Statement presented to the Joint Economic Committee of Congress in September, 1962; released by the Southern Regional Council, Atlanta, Ga., October 15, 1962.

Cunningham, George E., "Reasons for Belated Education: A Study of the Plight of Older Negro Teachers," Journal of Negro Education 27:195-200 (Spring 1958).

Daniel, Walter C., "Negroes as Teaching Assistants in Some Publicly-Supported Universities," Journal of Negro Education 31:202-204 (Spring 1962).

Daniel, W. G., "The Relative Employment and Income of American Negroes," Journal of Negro Education, 32:349-357 (Fall 1963).

Decker, Paul M., "A Study of Job Opportunities in the State of Florida for Negro College Graduates," Journal of Negro Education 29:93-95 (Winter 1960).

Dewey, Donald, "Negro Employment in Southern Industry," Journal of Political Economy 60:279-293 (August 1952).

Dewey, Donald, Four Studies of Negro Employment in the Upper South, Washington, D.C.: National Planning Association, 1953.

Dewey, Donald, "Southern Poverty and the Racial Division of Labor," New South 17:3-5, 11-13 (May 1962). Penetrating and thorough studies of Negro employment in the South.

Discrimination and Low Incomes, New York State Commission Against Discrimination, 1959.

Duncan, Otis D., and Beverly Duncan, The Negro Population of Chicago: A Study of Residential Succession, Chicago: University of Chicago Press, 1957. Occupational patterns also examined.

Dwyer, Robert J., "The Negro in the U.S. Army," Sociology and Social Research 38:103-112 (November 1953). Wherever the pattern of segregation has broken down, there has been a marked absence of friction or tension, and in many cases changes in the Negro's relations with the civilian community have followed.

Edwards, G. Franklin, "The Occupational Mobility of Negro Professional Workers," in E. W. Burgess and D. J. Bogue, eds., Contributions to Urban Sociology. Chicago: University of Chicago Press, 1964.

Employment in the Hotel Industry. New York State Commission Against Discrimination, 1958).

The Employment of Negroes as Driver Salesmen in the Baking Industry. New York State Commission Against Discrimination, 1960.

Employment Practices in Pennsylvania. Report of the Governor's Commission on Industrial Race Relations, Harrisburg, 1953.

Employment Study. Report (Part V) of the Governor's Advisory Commission on Civil Rights, Columbus, Ohio, 1958.

"Ethnic Survey of Municipal Employees," City Commission on Human Rights of New York, March 19, 1964.

Falls, Arthur G., "The Search for Negro Medical Students," Integrated Education 1:15-19 (June 1963).

Feldman, J. Arnold, "The 1960 Audit of Negro Veterans and Servicemen," Journal of Intergroup Relations 2:79-81 (Winter 1960-1961).

Florida Council on Human Relations, "Negro Employment in Miami," New South 17:6-10 (May 1962).

Gallaher, Art, Jr., The Negro and Employment Opportunities in the South--Houston. Atlanta, Ga.: Southern Regional Council, 1961.

Ginzberg, Eli, and Hyman Berman, "The Negro's Problem is the White's," New York Times Magazine, February 9, 1964.

Glenn, Norval D., "Changes in the American Occupational Structure and Occupational Gains of Negroes During the 1940's," Social Forces 41:188-195 (December 1962).

Glenn, Norval D., "Some Changes in the Relative Status of American Non-whites, 1940-1960," Phylon 24:109-122 (Summer 1963). Relative changes in occupation, employment, income, and educational status.

Greenwald, William, and Robert E. Weintraub, "Money Benefits of Education by Sex and Race in New York State, 1956," Journal of Educational Sociology 34:312-319 (March 1961).

Guillory, Barbara M., "The Career Patterns of Negro Lawyers in New Orleans," unpub. master's thesis, Louisiana State University, 1960.

Hare, Nathaniel, "The Changing Occupational Status of the Negro in the United States: An Intracohort Analysis," unpub. doc. diss., University of Chicago, 1962.

Harper, R. M., "Racial Contrasts in Income," Alabama Lawyer 21:257-260 (July 1960).

Harrington, Michael, "The New Lost Generation: Jobless Youth," New York Times Magazine, May 24, 1964.

Harrison, Lincoln J., "The Status of the Negro CPA in the United States," Journal of Negro Education 31:503-506 (Fall 1962).

Hart, Joe W., "Effects of Automation on the Position of Negroes in a Southern Industrial Plant," and "A Study of the Effects of Efforts to Improve Employment Opportunities of Negroes on the Utilization of Negro Workers," Journal of Human Relations 12:419-423 (Spring 1964). Two brief research notes.

Hauser, Philip M., "The Labor Force as a Field of Interest for the Sociologist," American Sociological Review 16:530-538 (August 1951).

Hawley, Langston T., Negro Employment in the Birmingham Metropolitan Area. Washington, D.C.: National Planning Association, 1954.

Hentoff, Nat. "Race Prejudice in Jazz." Harper's Magazine 218:72-77 (June 1959).

Hiestand, Dale L., Economic Growth and Employment Opportunities for Minorities. New York: Columbia University Press, 1964. Introduction by Eli Ginzberg. The author finds the labor demand factor more important for the Negro than supply. Opportunities for Negro workers tend to open up chiefly to replace white workers with better opportunities, that is, in declining occupational areas with little long-run significance. Bibliography.

Hill, Herbert, "Patterns of Employment Discrimination," Crisis 69:137-147 (March 1962).

Hill, Herbert, "Racial Discrimination in the Nation's Apprenticeship Training Program," Phylon 23:215-224 (Fall 1962).

Hope, John, II, "The Self-Survey of the Packing House Union," Journal of Social Issues 9: 28-36 (January 1953).

Hope, John, II, "The Employment of Negroes in the United States by Major Occupation and Industry," Journal of Negro Education 22:307-321 (Summer 1953). Period 1940-1950.

Hope, John, II, "Equality of Employment Opportunity: A Process Analysis of Union Initiative," Phylon 18:140-154 (Summer 1957).

Hope, John, II, "Central Role of Intergroup Agencies in the Labor Market: Changing Research and Personnel Requirements," Journal of Intergroup Relations 2:132-144 (Spring 1961).

Hope, John, II, "Equal Employment Opportunity: Changing Problems, Changing Techniques," Journal of Intergroup Relations 4:29-36 (Winter 1962-1963).

Hope, John, II, and E. Shelton, "The Negro in the Federal Government," Journal of Negro Education 32:367-374 (Fall 1963).

Jefferson, Miles, "The Negro on Broadway, 1954-55," Phylon 16:303-312 (Fall 1955). Extent of employment and type of roles (chiefly minor).

Jefferson, Miles, "The Negro on Broadway, 1955-56," Phylon 17:227-237 (Fall 1956).

"Jobs for Negroes: How Much Progress in Sight?" Newsweek 62:68-70, 72 (July 15, 1963).

"Job Outlook for Youth," Ebony 18:25-30 (May 1963).

Jobs, 1960-1970: The Changing Pattern. Albany: New York State Department of Labor, 1960.

Jones, Major J., The Negro and Employment Opportunities in the South--Chattanooga. Atlanta, Ga.: Southern Regional Council, 1962.

Kiehl, Robert, "Negro Engineers and Students Report on their Profession," Journal of Negro Education 27:189-194 (Spring 1958).

Kohler, Mary Conway, assisted by Marcia Freeman, Youth and Work in New York City. New York: Taconic Foundation, March 1962.

Kuebler, Jeanne, "Negro Jobs and Education," Educational Research Reports, January 23, 1963.

Lang, Gladys Engel, "Discrimination in the Hiring Hall," in Aaron Antonovsky and Lewis L. Lorwin, eds., Discrimination and Low Incomes. New York: New School for Social Research, 1959 (multi.).

"Manpower Report of the President and a Report on Manpower Requirements, Resources, Utilization and Training," by U.S. Department of Labor, transmitted to the Congress March 1964.

Marshall, Thurgood, "Summary Justice--The Negro GI in Korea," Crisis 58:297-304, 350-355 (May 1951).

Marshall, Thurgood, Report on Korea. NAACP, 1951. The author, who went to Korea to investigate alleged injustice in Courts Martial, found that Jim Crow policies still existed in army.

Michael, Donald, Cybernation: The Silent Conquest. Pasadena, Calif.: Center for the Study of Democratic Institutions, 1962. Effect on length of work-week, unions, total unemployment.

Michael, Donald, The Next Generation. New York: Random House, 1965. The author concludes that without long-term, extensive effort to eliminate the sources of low capability, a "Negro menial, unskilled, worker society" will be perpetuated. Report prepared for President's Committee on Juvenile Delinquency and Youth Crime.

Mihlon, Lawrence F., "Industrial Discrimination--The Skeleton in Everyone's Closet," Factory 70:80-87 (April 1962).

Morgan, Gordon D., "Representation of Negroes and Whites as Employees in the Federal Prison System," Phylon 23:372-378 (Winter 1962).

Morrow, Joseph J., "American Negroes--A Wasted Resource," Harvard Business Review 35:65-74 (January-February 1957). An examination of the opportunities, problems, advantages, and disadvantages of accelerated hiring of Negroes by business.

Moynihan, Daniel Patrick, "Behind Los Angeles: Jobless Negroes and the Boom," Reporter 33:31 (September 9, 1965).

Moynihan, Daniel Patrick, "Employment, Income, and the Ordeal of the Negro Family," Daedalus 94:745-770 (Fall 1965).

National Manpower Council, A Policy for Skilled Manpower. New York: Columbia University Press, 1954.

National Manpower Council, Improving the Work Skills of the Nation. New York: Columbia University Press, 1955.

National Planning Association, Committee of the South, Selected Studies of Negro Employment in the South: Report No. 6. Washington, D.C.: National Planning Association, 1953.

"Negroes in Apprenticeship: New York State," Monthly Labor Review 83:952-957 (September 1960).

"The Negro's Drive for Jobs," Business Week, August 17, 1963.

"Negro Employment Problem," Dun's Review and Modern Industry 82:59-60, 62 (August 1963).

"The Negro in [School] Administration," Overview 2:35-37 (June 1961).

The Negro Wage-Earner and Apprenticeship Training Programs. New York: NAACP, 1960.

Newton, I. E., "The Negro and the National Guard," Phylon 23:18-28 (Spring 1962).

Nicol, Helen, with Merci L. Drake, Negro Women Workers in 1960. Washington, D.C.: GPO, 1964. Prepared for the Women's Bureau, Department of Labor.

Nonwhite Unemployment in the U.S. 1947-1958. New York State Commission Against Discrimination, Division of Research, 1958.

Norgren, Paul H., Racial Discrimination in Employment: Bibliography. Princeton: Princeton University Press, 1962.

Norgren, Paul H., et al., Employing the Negro in American Industry: A Study of Management Practices. New York: Industrial Relations Counselors, 1959. A study of 44 firms. Negro employment treated within the framework of industrial relations issues, and the realization of success within this framework.

Northrup, Herbert, and Richard Rowan, eds., The Negro and Employment Opportunity. Ann Arbor: University of Michigan Bureau of Industrial Relations, 1965.

Puryear, Mahlon T., "No Time for 'Tragic Ironies,'" Interracial Review 36:34-35 (February 1963). Negroes, employment, and technological change.

Puryear, Mahlon T., "The Negro in the Labor Force," Taconic Foundation Assessment Project, June 15, 1963.

Railroad, Employment in the New York and New Jersey. New York State Commission Against Discrimination, 1958.

Ramaker, Robert, "Negro Colleges Train Too Many Teachers, Too Few Technicians," Wall Street Journal, July 15, 1959.

Rayack, Elton, "Discrimination and the Occupational Progress of Negroes," Review of Economics and Statistics 43:209-214 (May 1961).

Reddick, L. D., "The Negro Policy of the American Army since World War II," Journal of Negro History 38:194-215 (April 1953). The Army has gone a considerable way toward abandoning Jim Crow policy, but practices have not yet caught up with policy.

Reed, Eugene T., "I Am a Controversial Dentist," Interracial Review 35:100-101 (April 1962). Professional problems of a New York Negro Catholic dentist seeking admission to the New York State Dental Society.

Roberts, Gene, Jr., "Waste of Manpower--Race and Employment in a Southern State," South Atlantic Quarterly 61:141-150 (Spring 1962).

Rose, Harold M., "The Market for Negro Educators in Colleges and Universities Outside the South," Journal of Negro Education 30:432-435 (Fall 1961).

Russell, R. D., "Experiences of Negro High School Girls with Domestic Placement Agencies," Journal of Negro Education 31:172-176 (Spring 1962).

Schiffman, J., "Employment of High School Graduates and Dropouts in 1962," Monthly Labor Review 86:772-779 (July 1963).

Schwartz, M., "Why They Don't Want to Work," Personnel Administration 27:6-10 (March 1964). Study of work motivation of Negroes.

Seidenberg, Jacob, Negroes in the Work Group. Ithaca: New York State School of Industrial and Labor Relations, Cornell University, 1950.

Silberman, Charles E., "The Businessman and the Negro," Fortune 68:97-99+ (September 1963). The author, from a survey of a number of representative firms, demonstrates that most of them have done very little to open up job opportunities for Negroes.

Steele, H. Ellsworth, "Jobs for Negroes" Some North-South Plant Studies," Social Forces 32:152-162 (December 1953).

Street, James H., The New Revolution in the Cotton Economy. Chapel Hill: University of North Carolina Press, 1957. And how it affects labor force.

Strzgt, Joseph W., Survey of Non-White Employees in State Government, Harrisburg, Pa.: Human Relations Commission, March, 1963.
Survey of Ohio College and University Placement Offices with Regard to Job Placement of Minority Students. Columbus: Ohio Civil Rights Commission, 1962.
Thompson, Daniel C., "Career Patterns of Teachers in Negro Colleges," Social Forces 36:270-276 (March 1958).
Thompson, Daniel C., Problems of Faculty Morale," Journal of Negro Education 29:37-46 (Winter 1960).
Training of Negroes in the Skilled Trades, Hartford: Connecticut Commission on Civil Rights, 1954. Limited vocational education facilities available to Negroes.
Turner, Ralph H., "Relative Position of the Negro Male in the Labor Force of Large American Cities," American Sociological Review 16:524-529 (August 1951).
Turner, Ralph H., "Foci of Discrimination in the Employment of Non-Whites," American Journal of Sociology 58:247-256 (November 1952).
Turner, Ralph H., "Negro Job Status and Education," Social Forces 32:45-52 (October 1953).
Turner, Ralph H., "Occupational Patterns of Inequality," American Journal of Sociology 59: 437-447 (March 1954).
"Two State Reports on Job Discrimination," Monthly Labor Review 81:1125-1130 (October 1958). New York and New Jersey.
United States Commission on Civil Rights, Report, Vol. III, Employment, Washington, D.C.: GPO, 1961.
United States Department of Labor, Women's Bureau Bulletin No. 287, Negro Women Workers in 1960, Washington, D.C.: GPO, 1963.
Vierst, J., "Negroes in Science," Science News Letter 87:218-219 (April 3, 1965).
Weaver, Robert C., Negro Labor: A National Problem. New York: Harcourt, Brace, 1946. A Study of Negro employment opportunities through World War II. The best and most comprehensive work on this subject up to date of publication.
Wilhelm, Sidney M., and Edwin H. Powell, "Who Needs the Negro?" Trans-Action 1:3-6 (September-October 1964). Subtitled "From the economics of exploitation to the economics of uselessness." The issue today is "a search for human rights in a world of machines that makes so many human beings utterly dispensable."
Wilson, C. E., "Automation and the Negro: Will We Survive?" Liberator 5:8-11 (July 1965). Study of the consequences of automation on the economic life of black workers.

3. THE NEGRO AND THE LABOR MOVEMENT

Bain, M., "Organized Labor and the Negro Worker," National Review 14:455 (June 4, 1963).
Battle, Robert, III, and Horace Sheffield, "Trade Union Leadership Council--Experiment in Community Action," New University Thought 3:34-41 (September-October 1963). Civil rights and unions in Detroit.
Bell, Daniel, "Reflections on the Negro and Labor," New Leader 46:18-20 (January 21, 1963).
Bell, Daniel, and Seymour M. Lipset, eds., "Trade unions and Minority Problems," Journal of Social Issues 9:2-62 (January 1953). Entire issue.
Bloch, Herman D., "Craft Unions, A Link in the Circle of Negro Discrimination," Phylon 18:361-372 (Winter 1957).
Bloch, Herman D., "Craft Unions and the Negro in Historical Perspective," Journal of Negro History 43:10-33 (January 1958).
Bloch, Herman D., "Negroes and Organized Labor," Journal of Human Relations 10:357-374 (Summer 1962).
Boggs, James, "The American Revolution: Pages from a Negro Worker's Notebook," Monthly Review 15:13-93 (July and August, 1963).
Brooks, Tom, "Negro Militants, Jewish Liberals, and the Unions," Commentary 32:209-216 (September 1961).
Brooks, Tom, "The Negro's Place at Labor's Table," Reporter 27:38-39 (December 6, 1962).
Carey, James B., "Race Hate: Newest Union-Busting Weapon," Progressive 22:16-18 (January 1958).

Doyle, William, Seymour M. Lipset, Herbert Hill, Bill Goode, B. K. Johnpoll, and Daniel J. Schulder, "Negroes and the Labor Movement: Record of the 'Left Wing' Unions," New Politics 2:142-151 (Fall 1962).

Fleischman, Harry, "Is Labor Color Blind?" Progressive 23:24-28 (November 1959).

Fleishman, Harry, and James Rorty, We Open the Gates: Labor's Fight for Equality. New York: National Labor Service, 1958.

Greer, Scott, Last Man In: Racial Access to Union Power. Glencoe, Ill: Free Press, 1959.

Greer, Scott, "The Place of the Negro in the American Labor Movement," American Review 1:98-109 (Winter 1961).

Grob, Gerald N., "Organized Labor and the Negro Worker, 1865-1900," Labor History 1: 164-176 (Spring 1960).

Hill, Herbert, "Labor Unions and the Negro: The Record of Discrimination," Commentary 28:479-488 (December 1959).

Hill, Herbert, "Organized Labor and the Negro Earner: Ritual and Reality," New Politics 1:8-19 (Winter 1962).

Hill, Herbert, "Racism Within Organized Labor: A Report of Five Years of the AFL-CIO, 1955-1960," Journal of Negro Education 30:109-118 (Spring 1961).

Hill, Herbert, "The ILGWU--Fact and Fiction," New Politics 2:7-27 (Winter 1963).

Hope, John, II, Equality of Opportunity: A Union Approach to Fair Employment. Washington, D.C.: Public Affairs, 1956.

Jacobs, Paul, The State of the Unions. New York: Atheneum, 1963. An inside look at American labor, a view of its leaders and members, their problems, scandals and future. See particularly chapter, "The Negro Worker Asserts His Rights," pp. 174 ff.

Johnson, Oakley C., "Marxism and the Negro Freedom Struggle," Journal of Human Relations 13:21-39 (Autumn 1965). Expectations and failures of efforts to join working class and Negro causes.

Kahn, Tom, The Economics of Equality. New York: League for Industrial Democracy, 1964. Thesis: the uniting of the Negro and the labor movements is the key to the future of America as a nation.

Kornhauser, William, "The Negro Union Official," American Journal of Sociology 57:443-452 (March 1952).

Kornhauser, William, "Ideology and Interests," Journal of Social Issues 9:49-60 (Winter 1953). Of the trade unions.

"Labor-Negro Division Widens," Business Week, July 9, 1960.

"Labor's 'Race Problem,'" Fortune 59:191-192, 194 (March 1959).

Litwak, Leon, The American Labor Movement. New York: Prentice-Hall Spectrum, 1962.

Marshall, Ray, "Some Factors Influencing Union Racial Practices," Proceedings of the Industrial Relations Research Association 1961.

Marshall, Ray, "Union Racial Practices and the Labor Market," Monthly Labor Review 85: 269-270 (March 1962).

Marshall, Ray, "Union Racial Problems in the South," Journal of Economy and Society. Berkeley: University of California Institute of Industrial Relations, May, 1962.

Marshall, Ray, "Union Structure and Public Policy: The Control of Union Racial Practices," Political Science Quarterly 78:444-458 (September 1963).

Marshall, Ray, "The Negro and Organized Labor," Journal of Negro Education 32:375-389 (Fall 1963).

Marshall, Ray, "Ethnic and Economic Minorities: Unions' Future or Unrecruitable," Annals of the American Academy of Political and Social Science 350:63-73 (November 1963).

Marshall, Ray, "Unions and the Negro Community," Industrial Labor Relations Review 17: 179-202 (January 1964).

Marshall, Ray, The Negro Worker and the Trade Unions: A Foot in the Door. New York: Wiley, 1965.

Mitchell, George S., and Horace R. Cayton, Black Workers and the New Unions. Chapel Hill: University of North Carolina Press, 1939. Good on impact of the CIO.

"The Philadelphia Story: Union Bias Is a Major Barrier to Equal Opportunity," Barron's 43:1 (June 3, 1963).

Randolph, A. Philip, "The Unfinished Revolution," Progressive 26:20-25 (December 1962). A persuasive plea for job retraining as an answer to automation. Includes a short summary of Negro and labor union relations since the 1830's.

Raskin, A. H., "Civil Rights: The Law and the Unions," Reporter 31:23-28 (September 10, 1964).
Read, F. T., "Minority Rights and the Union Shop," Minnesota Law Review 49:227 (December 1964).
Rich, J. C., "The NAACP versus Labor," New Leader 45:20-21 (November 26, 1962).
Rony, Vera, "Labor Drives to Close the South's Open Shop," The Reporter 33:31-34 (November 18, 1965).
Rose, Alvin W., "The Influence of a Border City Union on the Race Attitudes of Its Members," Journal of Social Issues 9:20-24 (Winter 1953). Based on a study of Teamsters Local 688 in St. Louis, Mo., published in Union Solidarity: The Internal Cohesion of a Labour Union, Minneapolis: University of Minnesota Press, 1952. Expresses optimism about ameliorating race relations through action of union leadership.
Taft, Philip, Organized Labor in American History, New York: Harper, 1964. Chapter 50, "Organized Labor and the Negro," although brief, is good historical résumé. Bibliographies to each chapter and an index.
Trewhitt, Henry L., "Southern Unions and the Integration Issue," Reporter 15:25-28 (October 4, 1956).
Tyler, Gus, "The Truth About the ILGWU," New Politics 2:6-17 (Fall 1962).
"Union Program for Eliminating Discrimination," Monthly Labor Review 86:58-59 (January 1963).

4. EFFORTS TO INTEGRATE

"The Anti-Bias Drive Hits Construction," Engineering News-Record, May 30, 1963.
"Anti-Bias Order Cracks Down on Union," Engineering News-Record, September 26, 1963.
"Anti-Discrimination Pact Signed in Philadelphia," Publishers' Weekly 184:35-36 (October 14, 1963). In the printing industry.
"Bias Drive May Help Nonunion Forces," Engineering News-Record, July 16, 1963.
"Billion-dollar Prize Spurs Integration," Business Week, June 3, 1961. At Lockheed plant in Georgia.
Bird, C., "More Room at the Top: Company Experience in Employing Negroes in High Jobs," Management Review 52:4-16 (March 1963).
Bloch, Herman D., "Recognition of Discrimination--A Solution," Journal of Social Psychology 48:291-295 (November 1958).
Bowman, Garda W., "Employment by Merit Alone," Office Executive 36:14-15, 37 (May 1961).
Bowman, Garda W., "What Helps or Harms Promotability," Harvard Business Review 42: 6-8+ (January-February 1964). A survey of executive thinking concerning management opportunities.
Brecher, Ruth, and Edward Brecher, "The Military's Limited War Against Segregation," Harper's Magazine 227:79-82,90-92 (September 1963). Army and air force bases are becoming islands of decency and progress in turbulent areas of South.
Browne, V. J., "Racial Desegregation in the Public Service, with Particular Reference to the U.S. Government," Journal of Negro Education 23:242-248 (Summer 1954).
"Builders Fear Anti-Bias Order," Engineering News-Record, July 12, 1962.
Bullock, Paul, "Combating Discrimination in Employment," California Management Review 3:18-32 (Summer 1961).
Calvet, Ivis J., "Operation Achievement," Interracial Review 36:170-172 (September 1963). Progress in New York in obtaining jobs for Negroes.
"Carrying Out a Plan for Job Integration," Business Week, April 13, 1963.
Cassell, Frank H., "Positive Action on Unemployment," Integrated Education 1:36 (June 1963).
Christopher, Maurice, "Desegregate Ads, TV, Lever Tells Agencies," Advertising Age 34: 1, 8 (August 12, 1963).
Christopher, Maurice, "CORE Seeks More Integrated Ads," Advertising Age 34:128 (September 9, 1963).

"Civil Rights Groups Move on Homebuilding," Engineering News-Record, October 12, 1961.
"Commission Puts Union Bias on the Spot," Engineering News-Record, March 12, 1964.
"Contractor Group Hits Revised Equal Employment Standards," Air Conditioning, Heating, and Refrigeration News, August 5, 1963.
"Contractors Urged to Take Lead on Bias," Engineering News-Record, August 22, 1963.
"Court Halts Bias: Chicago Ironworkers Must Accept Negro Apprentices," Engineering News-Record, October 24, 1963.
Cox, T., "Counselor's Views on Changing Management Policies," Public Relations Journal 19:8-9 (November 1963). How public relations organizations can meet problem of job discrimination.
"CPI [Chemical Process Industries] Takes Lead in Antibias Drive," Chemical Week 89:77-78+ (October 21, 1961).
"Crackdown on Discrimination Begins," Engineering News-Record, July 4, 1963. In government contracts.
"Detroit Feels Brunt of Negro Pressure," Business Week, June 29, 1963.
"Detroit Groups Adopt Anti-Bias Program," Engineering News-Record, August 1, 1963.
Douglass, Joseph H., "Intergroup Relations in the Federal Service," Journal of Intergroup Relations 2:37-48 (Winter 1960-1961).
Dworkin, Martin S., "The New Negro on Screen," Progressive 24:39-41 (October 1960); 24:33-36 (November 1960); 24:34-36 (December 1960). Three short articles discussing effect of Negro demands for "equality in imagery," and the realistic use of Negro actors.
Evans, James C., and David A. Lane, Jr., "Integration in the Armed Services," Annals of the American Academy of Political and Social Science 304:78-85 (March 1956).
Fleming, Harold C., "Equal Job Opportunity: Slogan or Reality?" Personnel Administration 26:25-28 (March 1963).
Four Years on the Job in Michigan. Lansing: Michigan F.E.P.C., 1960.
"Government Issues Apprenticeship Rules," Engineering News-Record, January 2, 1964.
Gould, John, "NOW: Massachusetts Plan for Equal Employment Opportunity," Industry (Mass.) 29:10-11,34 (December 1963).
Homan, H. L., and R. A. Enion, "What Are Some Industrial Relations Approaches to Integration?" Personnel Administration 26:55-57 (November 1963).
Hope, John, II, "Industrial Integration of Negroes: The Upgrading Process," Human Organization 11:5-14 (Winter 1952). Case studies of three Southern plants of the International Harvester Company, where an active nondiscrimination policy demonstrated possibility of moving toward color-blindness in upgrading workers on basis of efficiency.
Hope, John, II, "Efforts to Eliminate Racial Discrimination in Industry--With Particular Reference to the South," Journal of Negro Education 23:262-272 (Summer 1954).
Hunton, Harold, "Implementing 'Affirmative Action' with Air Force Contractors," Interracial Review 36:36-38 (February 1963).
"Industry Acts to Bar Apprenticeship Bias," Engineering News-Record, October 3, 1963.
Integration in the Armed Services: A Progress Report. Washington, D.C., 1955. Prepared for the Office of the Assistant Secretary of Defense for Manpower and Personnel.
James, J. H., "Guidelines for Initiating Fair Employment Practices," Personnel 40:53-59 (May 1963).
"Joint Stand Rejects Racial Quotas for Plumbing Apprentices," Air Conditioning, Heating, and Refrigeration News, August 26, 1963.
Katz, Irwin, Judith Goldston, and Lawrence Benjamin, "Behavior and Productivity in Bi-Racial Work Groups," Human Relations 11:123-141 (May 1958).
Killens, John Oliver, "Hollywood in Black and White," Nation 201:157-160 (September 20, 1965). 100th Anniversary Issue.
Kopp, R. W., "Management's Concern with Recent Civil Rights Legislation," Labor Law 16:67 (February 1965).
London, Jack, and Richard Hammett, "Impact of Company Policy upon Discrimination," Sociology and Sociological Research 39:88-91 (1954). A study of two industrial plants in the Midwest. Both professed a policy of nondiscrimination, but effective results were achieved only in the plant (automotive) where management and union took positive action.
Lunden, Leon E., "Antidiscrimination Provisions in Major Contracts," Monthly Labor Review 85:643-651 (June 1962).

Mechanic, G. J., "How Industry Views Integration," Iron Age 193:44-45 (February 27, 1964).
The Management of Racial Integration in Business. New York: McGraw-Hill, 1964. A "Special Report to Management" prepared by a research team in Harvard Graduate School of Business Administration. On the basis of field interviews and case studies, the group suggests techniques for personnel managers and makes projections for the future. Useful appendices list Negro newspapers, Negro radio stations, and predominantly Negro colleges and universities. Bibliography.
"Mechanical Contractors Association of America Directors OK Construction Industry Joint Committee Standard on Apprenticeship," Air Conditioning, Heating, and Refrigeration News, November 25, 1963.
"Merit for Hire: How On-the-Job Integration has Worked Out in Leading Companies," Supervisory Management 3:8-14 (May 1958).
"Minority Worker Hiring and Referral in San Francisco," Monthly Labor Review 81:1131-1136 (October 1958).
Mitchell, James P., "The Intimate State of Man," New South 15:9-13 (February 1960). Integration and problems of the human potential.
Moffitt, Donald, "Business-Backed 'Fair' in Seattle Aims to Open More Jobs to Negroes," Wall Street Journal, January 29, 1965. On a project organized by the Chamber of Commerce to increase number and range of jobs for Negroes.
Morris, R. B., "Adopting a Human Relations Policy," Public Management 45:198-200 (September 1963). Glencoe, Ill., develops formula for equal opportunity and non-discrimination.
Morrow, Joseph J., "Integrating the Negro into the Office," Office, March 1955.
Moss, James Allen, "Negro Teachers in Predominantly White Colleges," Journal of Negro Education 27:451-462 (Fall 1958).
Moss, James Allen, "The Utilization of Negro Teachers in the Colleges of New York State," Phylon 21:63-70 (Spring 1960).
"National Association of Plumbing-Heating-Cooling Contractors Raps Latest Draft of Anti-Bias Regulations for Apprenticeship Programs," Air Conditioning, Heating, and Refrigeration News, December 2, 1963.
"NAACP Demands Hit Snag," Broadcasting 32:42-44 (August 5, 1963). State Employees Union turns down request for adding a Negro to each crew.
"NAACP Making Headway at Film Studios," Broadcasting 32:52 (September 2, 1963).
"NAACP Sticks to Hollywood Deadline, No Set Quota for Negroes on Production Crews," Broadcasting 32:84 (September 16, 1963).
"Negroes Desire 'Integrated Ads' Researcher Finds," Advertising Age 33:28 (November 12, 1962).
"Negroes for the Jobs," Economist 205:660 (November 17, 1962).
"Negroes Score a Breakthrough," Engineering News-Record, November 15, 1962. Admitted to apprenticeships in construction industry.
"Negroes Take Aim at GM," Business Week, July 20, 1963.
"New York Strikes at Discrimination by Unions," Air Conditioning, Heating, and Refrigeration News, March 23, 1964. In sheet metal and plumbing trades.
Nichols, Lee, Breakthrough on the Color Front, New York: Random House, 1954. A detailed study of the desegregation of the armed forces.
"One Company's Answer to Negro Job Problem," Business Management 25:42-45 (February 1964). Pitney-Bowes, Inc., Stamford, Connecticut.
"Opportunities Industrialization Center Will Help Negroes Help Themselves," Air Conditioning, Heating, and Refrigeration News, March 16, 1964.
Patten, Thomas H., Jr., "The Industrial Integration of the Negro," Phylon 24:334-352 (Winter 1963).
Peabody, Malcolm E., Jr., "Government-Industry Unite for Civil Rights Program," Industry (Mass.) 288:10-12,32 (August 1963).
Pearson, Leonard E., "Equal Opportunity, Equal Justice," Christian Century 75:806-807 (July 9, 1958). Job Opportunity Program of Indianapolis, Ind., Society of Friends.
Perry, John, "Business--Next Target for Integration," Harvard Business Review 41:104-115 (March-April 1963). An important article suggesting practical methods of integration and outlining aspects of the problem as they apply both to Negroes and to managers.
"Philadelphia Crafts Offer Union Apprenticeship to Any Who Qualify," Air Conditioning, Heating, and Refrigeration News, September 2, 1963.

"Plan for Equal Opportunity at Lockheed," Monthly Labor Review 84:748-749 (July 1961).

President's Committee on Equality of Treatment and Opportunity in the Armed Services, Freedom to Serve. Washington, D.C.: GPO, 1950.

"Race Demonstrations Open Union Doors," Engineering News-Record, January 2, 1964. In the New York City building trades.

"Readying for Rights Law," Chemical Week 94:77 (February 22, 1964). Preparation on hiring practices.

Robinson, Jackie, "The Racial Crisis," Sales Management 91:33-37 (August 16, 1963). Reprinted in entirety in Negro Digest, November 1963, under title "Race and Big Business."

Sawyer, David A., "Fair Employment in the Nation's Capital: A Study of Progress and Dilemma," Journal of Intergroup Relations 4:37-54 (Winter 1962-1963).

Shostak, A. B., "Human Problems in Improving Industrial Race Relations," Personnel Administration 26:28-31 (March 1963).

Speroff, B., "Problems and Approaches in Integrating Minority Group Work Forces," Journal of Social Psychology 37:271-273 (May 1953).

"A Stronger CIJC [Construction Industry Joint Conference] to Speak on Bias," Engineering News-Record, August 1, 1963.

Stuart, Irving R., "Intergroup Relations and Acceptance of Puerto Ricans and Negroes in an Immigrant's Industry," Journal of Social Psychology 56:89-96 (February 1962).

"Study Finds Anti-Bias Laws Ignored," Engineering News-Record, August 8, 1963.

"Text of Plumbing Industry's Policy Statement Rejecting Racial Quota System," Air Conditioning, Heating, and Refrigeration News, September 9, 1963.

"Treat Negro Equally to Get His Business, Marketing Men Told," Advertising Age 34:62 (October 7, 1963).

"Unions Sign Nondiscrimination Pledges," Engineering News-Record, November 22, 1962.

"URW Pushes Civil Rights; Beset by Bias Charges," Chemical Week 93:121 (September 14, 1963).

"Urban League Hits New York Agencies on Racial Discrimination in Employment," Advertising Age 34:1,96 (April 22, 1963).

"Washington Rules Out Bias in Training," Engineering News-Record, October 24, 1963. Construction industry apprenticeship program.

Weintraub, Robert, "Employment Integration and Racial Wage Differences in a Southern Plant," Industrial and Labor Relations Review 12:214-226 (January 1959).

Wheeler, J. H., "Impact of Race Relations on Industrial Relations in the South," Labor Law Journal 15:474 (July 1964).

Wood, David G., "How Businessmen Can Fight 'Big Government'--and Win," Harper's Magazine 227:77-81 (November 1963). Suggestions by a steel man that business step in and make plans to provide jobs, particularly for Negroes, and take initiative in obtaining rights for Negroes.

Wortman, M. S., Jr., and F. Luthans, "How Many Contracts Ban Discrimination in Employment?" Personnel 41:75-79 (January 1964).

VIII. HOUSING AND URBAN RENEWAL

The two principal approaches to the problem of Negro housing have been anti-discrimination enactments and community development by way of urban renewal and integrated public housing, fields that have attracted some of the most able students and public servants. While the combating of discriminatory practices, the fostering of interracial community amity, the just administration of laws continue to be goals, the plight of the ghetto Negro is only part of the total problem of the modern city.

Charles Abrams has said that housing constitutes the most serious single barrier to the Negro's advance. So long as Negroes are confined in ghettos, attempts to conquer de facto segregation of the public schools will be repeatedly frustrated, and all the attributes of slum life will continue to foster family instability, unemployment, crime, and social violence. Karl and Alma Taeuber, in their recently published Negroes in Cities (1965), have declared that discrimination is by far the strongest cause of residential segregation, and foresee little hope for its early eradication. If they are correct, the prospects are indeed dismal for a long time to come.

1. THE LAW, THE COURTS, AND REGULATORY ACTION

Abrams, Charles, "Discrimination and the Struggle for Shelter," New York Law Forum 6: 3-12 (January 1960). The author, President of the National Committee Against Discrimination in Housing, argues for a program to create decent environments, with emphasis on vacant land utilization rather than large-scale housing developments, on rental housing in small units, and on a mortgage loan program.

Abrams, Charles, "The Housing Order & Its Limits," Commentary 35:10-14 (January 1963).

Aarbach, Herbert A., John R. Coleman, and Bernard Mausner, "Restrictive and Protective Viewpoints of Fair Housing Legislation: A Comparative Study of Attitudes," Social Problems 8:118-125 (Fall 1960).

Aring, Alfred, ed., Open Occupancy vs. Forced Housing Under the 114th Amendment: A Symposium on Anti-Discrimination Legislation, Freedom of Choice, and Property Rights in Housing. New York: Bookmailer, 1963. Included are pieces by lawyers, social scientists, real estate dealers from several areas of the country. While a wide range of opinions is covered, the volume is weighted on the side of "freedom of choice."

Barber, B. L., "The Case of the Checker-board Ordinance: An Experiment in Race Relations," Yale Law Journal 71:1387-1423 (July 1962).

Blumrosen, A. B., "Antidiscrimination Laws in Action in New Jersey: A Law-Sociology Study," Rutgers Law Review 19:189 (Winter 1965).

Brancomb, A. W., "Analysis of Attempts to Prohibit Racial Discrimination in the Sale and Rental of Publicly Assisted Private Housing," George Washington Law Review 28:758-778 (April 1960).

Carter, Robert L., Dorothy Kenyon, Peter Marcuse, and Loren Miller, with a foreword by by Charles Abrams, Equality. New York: Pantheon, 1965. The views of four legal authorities on the issue of quotas and preferential treatment for Negroes as a means of achieving racial equality.

[Aug. 9, 1966]

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF ARKANSAS

EL DORADO DIVISION

JOHN R. DYKES, et al. Plaintiffs

v. Civil Action No. 1114

THE MONSANTO COMPANY and the OIL, CHEMICAL AND ATOMIC WORKERS INTERNATIONAL UNION (A.F.L. - C.I.O.) Defendants

SEPARATE ANSWER OF DEFENDANT

OIL, CHEMICAL AND ATOMIC WORKERS INTERNATIONAL UNION, AFL-CIO

For its answer to the complaint and amended complaint of the plaintiffs, defendant Oil, Chemical and Atomic Workers International Union, AFL-CIO, (hereinafter called OCAWIU) states (with particular reference to the amended complaint) as follows:

1. OCAWIU admits that this court has jurisdiction of this action under the Civil Rights Act of 1964, but denies the remaining allegations of paragraph I of the amended complaint.

2. OCAWIU denies the allegations of paragraph II of the amended complaint.

3. OCAWIU denies that there is a denial of equal employment opportunity forbidden by applicable law at the plant of The Monsanto Company, but is without sufficient knowledge to admit or deny the remaining allegations of paragraph III of the amended complaint.

4. OCAWIU adopts the language of paragraph 4 of the Separate Answer of the Defendant The Monsanto Company in answer to the allegations of paragraph IV of the amended complaint.

5. OCAWIU admits the allegations of paragraph V(a) of the amended complaint. OCAWIU admits that it is an international union which functions in the State of Arkansas, that it is the exclusive bargaining agent for all production, chemical, and operating employees and all janitors, porters, maids, and other common laborers at the plant in question, with specific exclusions, and that Newell Todd, of Little Rock, Arkansas, is a representative of OCAWIU, but denies the remaining allegations of paragraph V(b) of the amended complaint.

6. OCAWIU denies the allegations of paragraph VI of the amended complaint.

7. OCAWIU denies the allegations of paragraph VII of the amended complaint.

8. OCAWIU admits that neither the State of Arkansas nor the City of El Dorado has any statute relating to the allegations of the amended complaint, but is without sufficient knowledge to admit or deny the remaining allegations of paragraph VIII of the complaint.

9. OCAWIU denies the allegations of paragraph IX of the amended complaint, and opposes the relief sought therein.

10. In further answer, OCAWIU states that the issue of equal employment opportunity at the plant in question is governed by the second paragraph of Article XX of the collective bargaining contract between the defendants, stating as follows: "The Company and the Union each agrees not to discriminate against any employee because of race, religion, color or national origin."

11. In further answer, OCAWIU states that at no time has any plaintiff or person in allegedly similar circumstances made any legal or contractual claim that the collective bargaining process has in any way been insufficient to or incapable of preserving rights similar to those asserted as grounds for the instant action.

For the above reasons, among others, it is respectfully urged that the complaint and the amended complaint be dismissed,

and that defendant Oil, Chemical and Atomic Workers International Union, AFL-CIO, be allowed its costs, including reasonable attorneys fees, and all other relief to which it may be found entitled.

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Denver 1, Colorado

Attorneys for Defendant OCAWIU

By James E. Youngdahl

CERTIFICATE

I hereby certify that I have, this 9 day of August, 1966, mailed copies of the foregoing Separate Answer of Defendant, Oil, Chemical and Atomic Workers Union, AFL-CIO, to attorneys of record for all parties, as follows:. Mr. John W. Walker, 1304-B Wright Avenue, Little Rock, Arkansas; Mr. William J. Wynne, Crumpler, O'Connor, Wynne & Mays, 303 Murphy Building, El Dorado, Arkansas 71730; and Mr. Elton L. French, Monsanto Company, 800 North Lindberg, St. Louis 66, Missouri.

James E. Youngdahl

U. S. District Court
Western Dist. Arkansas
FILED

E. A. Riddle, Clerk

By
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE WESTERN DISTRICT OF ARKANSAS
EL DORADO DIVISION

JOHN R. DYKES, GUS BROWN, LEE EVANS, DE WITT ARRINGTON, B. J. ALDERSON and GEORGE F. ELERSON,	)	
Plaintiffs	)	
vs.	)	Civil Action File No. 1114
THE MONSANTO COMPANY, and OIL, CHEMICAL AND ATOMIC WORKERS UNION	)	
Defendants	)	

SEPARATE ANSWER OF THE DEFENDANT
THE MONSANTO COMPANY

COMES the defendant Monsanto Company and for its separate answer to the complaint and amended complaint of plaintiffs as filed in this cause alleges and states:

1.

Admits that this is a suit instituted pursuant to Title VII of the Civil Rights Act of 1964 but specifically denies that this court has jurisdiction of this cause as to this defendant and therefore alleges that the court has no jurisdiction to grant the relief against this defendant which plaintiffs seek.

2.

The allegations contained within Paragraph II of plaintiffs' complaint require no answer of this defendant.

3.

Admits that this is a proceeding for a preliminary and permanent injunction but specifically denies that there are any grounds to sustain or support the issuance

thereof. This defendant further specifically denies all other allegations as contained within Paragraph III of plaintiffs' complaint and affirmatively alleges that the chemical plant owned and operated by it as referred to within plaintiffs' complaint is a completely integrated facility without discrimination against said plaintiffs or any other persons employed at such facility on the grounds of race and color or other reason whatsoever.

4.

Admits that the plaintiffs are those persons as alleged in Paragraph IV of plaintiffs' complaint.

(a) Admits that the plaintiff John R. Dykes has been employed by this defendant or its corporate predecessor in the Labor Department of such facility since September 2, 1949, and that he is presently assigned to the Nitrate Graining Plant and is paid at the regular rate of $2.74 per hour. This defendant further admits that dues of the defendant Oil, Chemical and Atomic Workers International Union ("OCAWU") are presently being deducted in accordance with a dues deduction authorization card as furnished to this defendant by said plaintiff.

(b) Admits that the plaintiff Gus Brown has been employed by this defendant or its corporate predecessor in the Labor Department of such facility since March 1, 1950, and that he is presently assigned to the Nitrate Graining Plant and is paid at the regular rate of $2.74 per hour. This defendant further admits that dues of the defendant OCAWU are presently being deducted in accordance with a dues deduction authorization card as furnished to this defendant by said plaintiff.

(c) Admits that the plaintiff Lee Evans has been employed by this defendant or its corporate predecessor in the Labor Department of such facility since July 22, 1947, and that he is presently assigned to the Urea Area and is paid at the regular rate of $2.74 per hour. This defendant further admits that dues of the defendant OCAWU are presently being deducted in accordance with a dues deduction authorization card as furnished to this defendant by said plaintiff.

(d) Admits that the plaintiff DeWitt Arrington has been employed by this defendant or its corporate predecessor in the Labor Department of such facility since July 16, 1947, and that he is presently assigned as a head loader and is paid at the regular rate of $2.94 per hour. This defendant further admits that dues of the defendant OCAWU are presently being deducted in accordance with a dues deduction authorization card as furnished to this defendant by said plaintiff.

(e) Admits that the plaintiff B. J. Alderson has been employed by this defendant or its corporate predecessor in the Labor Department of such facility since July 15, 1947, and that he is presently assigned as a janitor and is paid at the regular rate of $2.56 per hour. This defendant further admits that dues of the defendant OCAWU are presently being deducted in accordance with a dues deduction authorization card as furnished to this defendant by said plaintiff.

(f) Admits that the plaintiff George F. Elerson has been employed by this defendant or its corporate predecessor in the Labor Department of such facility since December 16, 1946, and that he is presently assigned as a head loader and is paid at the regular rate of $2.94 per hour. This defendant further admits that dues of the defendant OCAWU are presently being deducted in accordance with a dues deduction authorization card as furnished to this defendant by said plaintiff.

(g) Admits that the plaintiff Phillip Moore has been employed by this defendant or its corporate predecessor in the Labor Department of such facility since September 6, 1950, and that he is presently assigned to the Nitrate Graining Plant and is paid at the regular rate of $2.74 per hour. This defendant has no knowledge or information whether or not Phillip Moore is a member of OCAWU.

(h) Admits that the plaintiff Albert Williams, Jr., has been employed by this defendant or its corporate predecessor in the Labor Department of such facility since October 10, 1949, and that he is presently assigned as a janitor and is paid at the regular rate of $2.56 per hour. This defendant further admits that dues of the

defendant OCAWU are presently being deducted in accordance with a dues deduction authorization card as furnished to this defendant by said plaintiff.

(i) Admits that the plaintiff Burnette Shutes has been employed by this defendant or its corporate predecessor in the Labor Department of such facility since October 19, 1947, and that he is presently assigned as a yard laborer and is paid at the regular rate of $2.56 per hour. This defendant further admits that dues of the defendant OCAWU are presently being deducted in accordance with a dues deduction authorization card as furnished to this defendant by said plaintiff.

(j) Admits that the plaintiff Joe C. Jones has been employed by this defendant or its corporate predecessor in the Labor Department of such facility since March 10, 1950, and that he is presently assigned to the Nitrate Graining Plant and is paid at the regular rate of $2.74 per hour. This defendant further admits that dues of the defendant OCAWU are presently being deducted in accordance with a dues deduction authorization card as furnished to this defendant by said plaintiff.

(k) Admits that the plaintiff William Lockhart has been employed by this defendant or its corporate predecessor in the Labor Department of such facility since May 6, 1944, and that he is presently assigned as a yard laborer and is paid at the regular rate of $2.56 per hour. This defendant further admits that dues of the defendant OCAWU are presently being deducted in accordance with a dues deduction authorization card as furnished to this defendant by said plaintiff.

(l) Admits that the plaintiff Lewis T. Johnson has been employed by this defendant or its corporate predecessor in the Labor Department of such facility since January 3, 1947, and that he is presently assigned as a yard laborer and is paid at the regular rate of $2.56 per hour. This defendant further admits that dues of the defendant OCAWU are presently being deducted in accordance with a dues deduction authorization card as furnished to this defendant by said plaintiff.

(m) Admits that the plaintiff Donnie L. Brown has been employed by this defendant or its corporate predecessor in the Labor Department of such facility since

September 17, 1946, and that he is presently assigned as a yard laborer and is paid at the regular rate of $2.56 per hour. This defendant further admits that dues of the defendant OCAWU are presently being deducted in accordance with a dues deduction authorization card as furnished to this defendant by said plaintiff.

(n) Admits that the plaintiff John H. Henderson has been employed by this defendant or its corporate predecessor in the Labor Department of such facility since March 10, 1950, and that he is presently assigned as a yard laborer and is paid at the regular rate of $2.56 per hour. This defendant further admits that dues of the defendant OCAWU are presently being deducted in accordance with a dues deduction authorization card as furnished to this defendant by said plaintiff.

(o) Admits that the plaintiff Prentice C. O'Guinn has been employed by this defendant or its corporate predecessor in the Labor Department of such facility since March 13, 1947, and that he is presently assigned as a yard laborer and is paid at the regular rate of $2.56 per hour. This defendant further admits that dues of the defendant OCAWU are presently being deducted in accordance with a dues deduction authorization card as furnished to this defendant by said plaintiff.

(p) Admits that the plaintiff Willie R. Charles has been employed by this defendant or its corporate predecessor in the Labor Department of such facility since March 7, 1951, and that he is presently assigned to the Nitrate Graining Plant and is paid at the regular rate of $2.74 per hour. This defendant further admits that dues of the defendant OCAWU are presently being deducted in accordance with a dues deduction authorization card as furnished to this defendant by said plaintiff.

(q) Admits that the plaintiff O. B. Ewing has been employed by this defendant or its corporate predecessor in the Labor Department of such facility since November 8, 1949, and that he is presently assigned to the Nitrate Graining Plant and is paid at the regular rate of $2.74 per hour. This defendant further admits that dues of the defendant OCAWU are presently being deducted in accordance with a dues deduction authorization card as furnished to this defendant by said plaintiff.

(r) Admits that the plaintiff Nilon Moore has been employed by this defendant or its corporate predecessor in the Labor Department of such facility since March 9, 1944, and that he is presently assigned as a janitor and is paid at the regular rate of $2.56 per hour. This defendant further admits that dues of the defendant OCAWU are presently being deducted in accordance with a dues deduction authorization card as furnished to this defendant by said plaintiff.

(s) Admits that the plaintiff Hilbert Dunwood has been employed by this defendant or its corporate predecessor in the Labor Department of such facility since September 7, 1949, and that he is presently assigned as a yard laborer and is paid at the regular rate of $2.56 per hour. This defendant further admits that dues of the defendant OCAWU are presently being deducted in accordance with a dues deduction authorization card as furnished to this defendant by said plaintiff.

(t) Admits that the plaintiff Roosevelt McClelland has been employed by this defendant or its corporate predecessor in the Labor Department of such facility since March 15, 1950, and that he is presently assigned as a yard laborer and is paid at the regular rate of $2.56 per hour. This defendant further admits that dues of the defendant OCAWU are presently being deducted in accordance with a dues deduction authorization card as furnished to this defendant by said plaintiff.

(u) Admits that the plaintiff Falton Nisley has been employed by this defendant or its corporate predecessor in the Labor Department of such facility since August 9, 1950, and that he is presently assigned to the Nitrate Graining Plant and is paid at the regular rate of $2.74 per hour. This defendant further admits that dues of the defendant OCAWU are presently being deducted in accordance with a dues deduction authorization card as furnished to this defendant by said plaintiff.

(v) Admits that the plaintiff A. C. Bradford has been employed by this defendant or its corporate predecessor in the Labor Department of such facility since March 15, 1950, and that he is presently assigned to the Nitrate Graining Plant and is paid at the regular rate of $2.74 per hour. This defendant further admits that dues of the defendant OCAWU are presently being deducted in accordance with a dues deduction authorization card as furnished to this defendant by said plaintiff.

(w) Admits that the plaintiff Thomas Smith has been employed by this defendant or its corporate predecessor in the Labor Department of such facility since October 28, 1947, and that he is presently assigned to the Urea Area and is paid at the regular rate of $2.74 per hour. This defendant further admits that dues of the defendant OCAWU are presently being deducted in accordance with a dues deduction authorization card as furnished to this defendant by said plaintiff.

5.

(a) Admits that this defendant is a foreign corporation qualified to do and doing business in the State of Arkansas and that it engages, inter alia, in the manufacture and sale of chemical products. Further admits that said defendant's plant facility is located in the City of El Dorado, Arkansas, and that in excess of 100 employees are employed by defendant at such plant and that Mr. Joe Gillespie is presently plant manager.

(b) The allegations contained within Paragraph IV (b) of plaintiffs' complaint require no answer of this defendant.

6.

A. Admits that there are three departments at the aforesaid plant facility of this defendant but denies that the employees respectively assigned thereto are all unskilled or semi-skilled only. To the contrary, this defendant alleges that the job assignments and functions of the employees assigned to and working within the Operating and Maintenance Departments require qualification and technical competence sufficient to perform the skilled requirements of such job assignments.

(a) Admits that the Maintenance Department at such plant facility is generally concerned with the physical upkeep of the plant but denies that the employees assigned thereto consist of only semi-skilled technicians. This defendant further denies the existence of any arrangement between this defendant and any other person or parties

whatsoever which would deny or exclude Negroes from equal employment opportunities in the Maintenance Department.

(b) Denies that the principal function of the Operating Department is the operation of motor-driven machines as alleged in Paragraph VI (b) of plaintiffs' complaint and alleges that such employees are rather principally concerned in the operation of the technical equipment and related apparatus required in the process of chemical manufacturing.

(c) Admits that employees assigned to the Labor Department are engaged as janitors, yard pool laborer, railroad laborer, garage laborer, head janitor, air tool operator, fork lift operator, graining plant laborer, urea plant laborer and head loader at varying wage rates from $2.56 to $2.94 per hour.

B. Admits that all employees assigned to the Maintenance and Operating Departments at such plant facility are white and that the employees in the Labor Department are Negroes but otherwise denies that the various job assignments in such categories basically call for unskilled laborers as alleged in plaintiffs' complaint, and further denies that the necessary skills required by employees in the Maintenance and Operating Departments are acquired through plant training programs only and that Negro employees are excluded therefrom on account of race. Denies that any discriminatory practices or procedures exist with regard to either lateral or vertical movements of employees within or between the Maintenance, Operating and Labor Departments and denies that advancement possibilities within the Labor Department are severely restricted.

C. Alleges that employment and job assignments are made on the basis of the agreements in force and effect between this defendant and the respective unions certified as the collective bargaining agent for the plaintiffs and various other employees within such plant facility and denies that such agreements prevent interdepartmental transfers as alleged in Paragraph VI (C) of plaintiffs' complaint.

D. Denies that separate picnic grounds, rest room facilities, lunch rooms and recreation halls are maintained by this defendant at its plant facility aforesaid and affirmatively alleges that all physical facilities at such plant are completely integrated.

Denies that Negroes are denied the opportunity to enroll and participate in job training programs sponsored by this defendant and alleges that eligibility therefor is dependent entirely upon qualification and technical competence. Admits that by letters dated on or shortly after July 7, 1965, certain of the plaintiffs made written requests to participate in a job training program and alleges that each of them was immediately informed that such program was being conducted for the training of qualified and experienced operators in the operation of the battery of panels newly installed within the control room at such facility.

7.

The allegations contained within Paragraph VII of plaintiffs' complaint require no answer of this defendant.

8.

Admits that there is no state or local law within the knowledge of this defendant applicable to the circumstances as alleged within plaintiffs' complaint. Admits that this defendant was informed that the plaintiff John R. Dykes filed a complaint with the Equal Employment Commission but denies knowledge of the finding of such Commission as alleged in Paragraph VIII of plaintiffs' complaint. Further denies for want of information any notification, if any, as given by said Commission to said plaintiff and alleges that this defendant, Monsanto Company, was not properly made a respondent in such proceeding and therefore lacks the requisite knowledge to enable it to respond to such allegations.

9.

Denies that any of the alleged wrongs have occurred or presently exist and that an injunction is the only means of relief available to plaintiffs, and further denies that plaintiffs have suffered or are now suffering any injury, irreparable or otherwise, from the policy, practice, custom and usage of this defendant in its employment practices and procedures.

10.

This defendant specifically further denies each and every other material allegation as contained within plaintiffs' complaint excepting only as otherwise admitted herein.

FURTHER ANSWERING, this defendant alleges and states:

11.

That the defendant Monsanto Company acquired the aforesaid chemical plant facility from Lion Oil Company by Agreement of Merger effective on the 30th day of September, 1955, and has since undertaken to determine all areas in which employment inequities might exist for purposes of elimination of the same. That all physical facilities at such plant have since been completely integrated with no distinction of and without regard to race, color, creed or national origin.

12.

That this defendant is an equal employment opportunity employer and has furnished all information requested relative to its employee practices and procedures to all governmental agencies and commissions requesting the same.

13.

That this defendant undertook voluntarily to comply with Executive Order 10925, as issued in 1961, and with Executive Order 11141, as issued in 1964, that nondiscrimination would be practiced.

14.

That this defendant on June 22, 1962, agreed with the President's Committee on equal employment opportunity to a "Plan for Progress" whereby this defendant agreed to follow a long-range program to effect nondiscrimination in employment and to implement such a program. That inspections have since been made by the

Atomic Energy Commission of the plant facility of defendant referred to above and no complaints or objections have been cited. That written reports are periodically prepared and submitted to the President's Committee with full disclosure of statistical data requested.

15.

That no additional or new permanent employees have been hired by this defendant at the aforesaid plant facility in the Labor Department since 1951 or in the Operating Department since 1957, nor have any of such employees been discharged or otherwise involuntarily terminated as a result of automation processes since instituted therein so as to avoid the employee hardship which might have otherwise resulted therefrom.

16.

That at the time each of the plaintiffs completed and submitted written applications for employment by this defendant, they and each of them specifically applied for and were hired as employees within the Labor Department on the basis of qualifications then existing therefor, which were then and would now be inadequate and substandard to permit a single line of promotional progression and advancement.

17.

That this defendant believes and based on such belief alleges that each and every one of the plaintiffs in this action (excepting Phillip Moore) is a member of the OCAWU and was at the time of the negotiation and execution of the Agreement now in effect between this defendant and that Union, which is a party defendant herein. That said Union has been certified as the collective bargaining agent of and for said plaintiffs and each of them and all the member employees of this defendant at such plant facility and they were consequently fully represented in the negotiations leading up to the execution of the Agreement referred to above. That said Agreement is

binding upon this defendant and upon the defendant OCAWU and that each of them is required to observe the terms, provisions and conditions as therein contained.

18.

That Article XX of said Agreement provides as follows:

Article XX

DISCRIMINATION

> There shall be no discrimination by the Company against any employe on account of his membership in this labor union or on account of any activity undertaken in good faith in his capacity as a representative of other employes. The Union shall not discriminate against any employe who is not a member of the Union.
>
> The Company and the Union each agrees not to discriminate against any employe because of race, religion, color, or national origin.

consonant with the interpretation made by the National Labor Relations Board of the pertinent provisions of the Labor Management Relations Act.

19.

That none of said employees, including but not limited to plaintiffs herein, has filed a grievance with this defendant pursuant to the prescribed procedures embodied within such Agreement, asserting the existence of any discriminatory practice or procedure, nor have they or any one of them otherwise informed this defendant of the alleged existence thereof.

20.

That this defendant is required to maintain standards of personnel qualification and competence because of the inherent character of the skilled work performed in the Maintenance and Operating Departments but that such procedures and policies of employment are completely devoid of discrimination based on race, color, creed or national origin.

That none of the alleged wrongs exists nor has irreparable injury from this defendant's policy, practice, custom and usage occurred to plaintiffs, or any one or more of them, or to the class and members thereof which plaintiffs herein purport to represent.

WHEREFORE, this defendant prays that plaintiffs' complaint be dismissed, that the prayer for a preliminary and permanent injunction be denied, for its costs herein expended, and for all other relief, both legal and equitable, to which this defendant is entitled, whether specifically prayed for herein or not.

CRUMPLER O'CONNOR WYNNE & MAYS

By William J. Wynne
William J. Wynne

Attorneys for Defendant
Monsanto Company

303 Murphy Building
El Dorado, Arkansas 71730

Of counsel:

Elton L. French, Esq.
Monsanto Company
800 North Lindberg
St. Louis 66, Missouri

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

JOHN R. DYKES, GUS BROWN,
LEE EVANS, DEWITT ARRINGTON,
B. J. ALDERSON, GEORGE F. ELERSON,
PHILLIP MOORE, ALBERT WILLIAMS, JR.,
BARNETTE SCHUTES, JOE C. JONES,
WILLIAM LOCKHART, LEWIS T. JOHNSON,
DONNIE L. BROWN, JOHN H. HENDERSON,
PRENTICE C. O'GUIN, WILLIE R. CHARLES,
O. B. EWING, NILON MOORE, HILBERT DUNWOOD,
ROOSEVELT McCLELLAN, FALTON NISLEY,
A. C. BRADFORD, and THOMAS SMITH,

PLAINTIFFS,

v. CIVIL ACTION NO. _____

THE MONSANTO COMPANY and the

OIL, CHEMICAL, and ATOMIC WORKERS
INTERNATIONAL UNION. (A&F.L. - C.I.O.),

DEFENDANTS.

AMENDED COMPLAINT

I

Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §1343. This is a suit in equity authorized and instituted pursuant to Title VII of the Act known as "The Civil Rights Act of 1964," 42 U.S.C. §§ 2000e et seq., and 42 U.S.C. §1983. The jurisdiction of this Court is invoked to secure rights protected and guaranteed by (a) Title VII of the Act known as "The Civil Rights Act of 1964," 42 U.S.C. §§2000e, providing for injunctive and other relief against racial discrimination in employment and (b) 42 U.S.C. §1981, providing for the equal rights of citizens and all persons within the jurisdiction of the United States.

II

Plaintiffs bring this action on their own behalf and on behalf of others similarly situated pursuant to Rule 23(a)(3) of the Federal Rules of Civil Procedure. There are common questions of law and fact affecting the rights of other Negross seeking equal employment opportunity without discrimination on the ground of race or color who are so numerous as to make it impracticable to bring them all before this Court. A common relief is sought. The interests of said class are adequately represented by plaintiffs.

III

This is a proceeding for a preliminary and permanent injunction restraining defendant from maintaining a policy, practice, custom and

usage of withholding, denying, attempting to withhold or deny, and depriving or attempting to deprive and otherwise interfering with the rights of plaintiffs and others similarly situated to equal employment opportunity at the chemical plant owned and operated by the Monsanto Company without discrimination on the ground of race and color.

IV

Plaintiffs are John R. Dykes, Gus Brown, Lee Evans, DeWitt Arrington, B. J. Alderson, George F. Elerson, Phillip Moore, Albert Williams, Jr., Barnette Schutes, Joe C. Jones, William Lockhart, Lewis T. Johnson, Donnie L. Brown, John H. Henderson, Prentice C. O'Guin, Willie R. Charles, O. B. Ewing, Nilow Moore, Hilbert Dunwood, Roosevelt McClellan, Falton Wisley, A. C. Bradford, and Thomas Smith.

(a) Plaintiff John R. Dykes has been employed at Defendant Monsanto for the past seventeen years. He is a member of the Defendant Oil, Chemical and Atomic Workers International Union (A.F.C. - C.I.O.) (hereafter "OCAWU"). He He is presently employed in the labor department and is paid a wage in the range of $2.51 to $2.90 per hour.

(b) Plaintiff Gus Brown has been employed at the defendant Monsanto Company in El Dorado, Arkansas for the past sixteen years. He is a member of the Defendant OCAWU. He is presently employed in the labor department and is paid a wage in the range of $2.51 to $2.90 per hour.

(c) Plaintiff Lee Evans has been employed at defendant Monsanto Company for the past eighteen years. He is a member of the Defendant OCAWU. He is presently employed in the labor department and is paid a wage in the range of $2.51 to $2.90 per hour.

(d) Plaintiff DeWitt Arrington has been employed at the Defendant Monsanto Company for the past eighteen years. He is a member of the Defendant OCAWU. He is presently employed in the labor department and is paid a wage in the range of $2.51 to $2.90 per hour.

(e) Plaintiff B. J. Alderson has been employed by the defendant Monsanto Company,"or its predecessor or predecessors companies," for the past nineteen years. He is a member of the defendant OCAWU. He is presently employed in the labor department and is paid a wage in the range of $2.51 to $2.90 per hour.

(f) Plaintiff George F. Elerson has been employed at the Defendant Monsanto Company for the past nineteen years. He is a member of the Defendant OCAWU. He is presently employed in the labor department and is paid a wage in the range of $2.51 to $2.90 per hour.

(g) Plaintiff Phillip Moore has been employed at the Defendant Monsanto Company for the past sixteen years. He is a member of the Defendant OCAWU. He is presently employed in the labor department and is paid a wage in the range of $2.51 to $2.90 per hour.

(h) Plaintiff Albert Williams, Jr. has been employed at the Defendant Monsanto Company for the past sixteen years. He is a member of the Defendant OCAWU. He is presently employed in the labor department and is paid a wage in the range of $2.51 to $2.90 per hour.

(i) Plaintiff Barnette Schutes has been employed at the Defendant Monsanto Company for the past nineteen years. He is a member of the Defendant OCAWU. He is presently employed in the labor department and is paid a wage in the range of $2.51 to $2.90 per hour.

(j) Plaintiff Joe C. Jones has been employed at the Defendant Monsanto Company for the past sixteen years. He is a member of the Defendant OCAWU. He is presently employed in the labor department and is paid a wage in the range of $2.51 to $2.90 per hour.

(k) Plaintiff William Lockhart has been employed at the Defendant Monsanto Company for the past twenty-two years. He is a member of the Defendant OCAWU. He is presently employed in the labor department and is paid a wage in the range of $2.51 to $2.90 per hour.

(l) Plaintiff Lewis T. Johnson has been employed at the Defendant Monsanto Company for the past nineteen years. He is a member of the Defendant OCAWU. He is presently employed in the labor department and is paid a wage in the range of $2.51 to $2.90 per hour.

(m) Plaintiff Dennis L. Brown has been employed at the Defendant Monsanto Company for the past twenty years. He is a member of the Defendant OCAWU. He is presently employed in the labor department and is paid a wage in the range of $2.51 to $2.90 per hour.

(n) Plaintiff John H. Henderson has been employed at the Defendant Monsanto Company for the past sixteen years. He is a member of the Defendant OCAWU. He is presently employedin the labor department and is paid a wage in the range of $2.51 to $2.90 per hour.

(o) Plaintiff Prentice C. O'Guin has been employed at the Defendant Monsanto Company for the past nineteen years. He is a member of the Defendant OCAWU. He is presently employed in the labor department and is paid a wage in the range of $2.51 to $2.90 per hour.

(p) Plaintiff Willie R. Charles has been employed at the Defendant Monsanto Company for the past fifteen years. He is a member of the Defendant OCAWU. He is presently employed in the labor department and is paid a wage in the range of $2.51 to $2.90 per hour.

(q) Plaintiff O. D. Ewing has been employed at the Defendant Monsanto Company for the past seventeen years. He is a member of the Defendant OCAWU. He is presently employed in the labor department and is paid a wage in the range of $2.51 to $2.90 per hour.

(r) Plaintiff Nilon Moore has been employed at the Defendant Monsanto Company for the past twenty-two years. He is a member of the Defendant OCAWU. He is presently employed in the labor department and is paid a wage in the range of $2.51 to $2.90 per hour.

(s) Plaintiff Hilbert Dunwood has been employed at the Defendant Monsanto Company for the past seventeen years. He is a member of the Defendant OCAWU. He is presently employed in the labor department and is paid a wage in the range of $2.51 to $2.90 per hour.

(t) Plaintiff Roosevelt McClellan has been employed at the Defendant Monsanto Company for the past seventeen years. He is a member of the Defendant OCAWU. He is presently employed in the labor department and is paid a wage in the range of $2.51 to $2.90 per hour.

(u) Plaintiff Felton Wisley has been employed at the Defendant Monsanto Company for the past sixteen years. He is a member of the Defendant OCAWU. He is presently employed in the labor department and is paid a wage in the range of $2.51 to $2.90 per hour.

(v) Plaintiff A.C. Bradford has been employed at the Defendant Monsanto Company for the past seventeen years. He is a member of the Defendant OCAWU. He is presently employed in the labor department and is paid a wage in the range of $2.51 to $2.90 per hour.

(w) Plaintiff Thomas Smith has been employed at the Defendant Monsanto Company for the past eighteen years. He is a member of the Defendant OCAWU. He is presently employed in the labor department and is paid a wage in the range of $2.51 to $2.90 per hour.

V

(a) The defendant Monsanto Company is a foreign corporation doing business and operating under the laws of the State of Arkansas which

engages in the manufacture and sale of chemical products among other things. Defendant's plant wherein the discrimination alleged herein occurred is located in El Dorado, Arkansas. Defendant plant employs more than one hundred employees and as such is subject to the provisions of Title VII of the Civil Rights Act of 1964.

Mr. Joe Gillespie is plant manager of defendant Monsanto Company.

(b) Defendant Oil, Chemical, and Atomic Workers International Union, OCAWU, is an international union doing business and operating under the laws of the State of Arkansas. Said defendant is the authorized bargaining agent for plaintiffs and other employees within the operator and labor categories at the defendant Monsanto Company's Chemical Plant located in the City of El Dorado, Arkansas. Mr. Newell Todd of Little Rock, Arkansas is the OCAWU representative.

VI

A. There are three categories of unskilled or semi-skilled labor at the Monsanto Chemical Plant north of El Dorado, Arkansas.

(a) The maintenance Department is generally concerned with the upkeep of the plant. Included within this category are electricians, truck drivers, mechanics and other semi-skilled technicians. Said employees are represented by the International Association of Machinists (IAM). By arrangement between the IAM, the OCAWU and the Monsanto Company, Negro employees in the OCAWU are denied or excluded from employment opportunities in the maintenance department. Consequently, the work force, and the seniority roster in the maintenance department consist of white persons only.

(b) Employees of the operator department generally operate various motor driven machines which are used to transport, move and load the products manufactured at Monsanto. There are four job classifications within this category: (1) operators and senior testers (rate of pay after July 1, 1966, $3.21 per hour); (2) senior operators and chief testers (rate of pay after July 1, 1966, $3.54 per hour.) (3) "B" operators (rate of pay after July 1, 1966, $3.61 per hour) (4) "A" operators (rate of pay after July 1, 1966, $3.69 per hour)

(c) Employees of the labor department engage in various types of physical loading of solid products and have janitorial duties. The classifications within this division are catagorized as follows:

(1) Janitor and yard pool laborer (rate of pay after July 1, 1966 -

$2.56 per hour.)

(2) laborer (rate of pay after July 1, 1966 - $2.67 to $2.74 per hour).

(3) head loader (rate of pay after July 1, 1966 - $2.94 per hour).

B. Advancement Opportunities Within and between categories.

1. All employees of the Monsanto Chemical Plant, El Dorado, Arkansas, who work in the maintenance department and the operator department are white. All employees in the labor department are Negro. The jobs in all three categories basically call for unskilled laborers and any skills necessary for any particular job in the maintenance or operator category are acquired through plant training programs from which Negroes have been, and still are, excluded on account of their race. During the period of plaintiffs' employment all of the employees in the maintenance and operator categories have been white.

Employees within the operator department are able to be transferred laterally to the maintenance department or to move vertically within the operator category itself. However, laborers are not able to move laterally to the operator category or to the maintenance department. The vertical advancement possibilities within the labor department are severely restricted.

C. Seniority Patterns

Positions within the three departments are periodically opened for "bidding" to employees within the plant. Departmental seniority is the basis for filling the positions opened. Therefore, qualified Negroes with superior company seniority are prevented from securing higher paying positions in the Maintenance and Operator Departments.

D. Other Discriminatory Practices.

1. The Monsanto Company has traditionally maintained, and continues to maintain, separate picnic grounds for its white and Negro employees; separate restroom facilities, separate lunch rooms, and separate recreation halls as well.

2. Negroes are denied the opportunity to enroll and/or participate in company-sponsored on the job training programs. For example, on or about August 1, 1965, plaintiffs made a written request to Mr. Blocker of Monsanto that they be placed in a training program being offered for advancement within the operator department. Mr. Blocker

advised plaintiff Dykes verbally that this was a specialized training program for eight white operators and for which Mr. Dykes as a laborer was ineligible. However, approximately seventy operators, all of whom were white, received specialized training in the summer of 1965.

VII

The OCAWU continually violates or otherwise fails to protect the rights of its Negro members employed at Monsanto.

VIII

Neither the State of Arkansas nor the City of El Dorado has a law prohibiting the unlawful practices alleged herein. Plaintiff John R. Dykes filed a complaint with the Equal Employment Commission alleging denial by defendant of his rights under Title VII of "The Civil Rights Act of 1964," 42 U.S.C. §§ 2000e et seq. late in 1965. The Commission found reasonable cause to believe that a violation of the Act had occurred by defendant. On or about May 24, 1966, the Commission notified plaintiff that defendant's compliance with Title VII has not been accomplished within the maximum period allowed to the Commission by Title VII of "The Civil Rights Act of 1964," 42 U.S.C. §§ 2000e et seq., and that plaintiff is entitled to maintain a civil action for relief in a United States District Court.

IX

Plaintiffs have no plain, adequate or complete remedy at law to redress the wrongs alleged, and this suit for a preliminary and permanent injunction is their only means of securing adequate relief. Plaintiffs and the class represent are now suffering and will continue to suffer irreparable injury from defendant's policy, practice, custom and usage as set forth herein.

WHEREFORE, plaintiffs respectfully pray that this Court advance this case on the docket, order a speedy hearing at the earliest practicable date, cause this case to be in every way expedited, and upon such hearing to:

1. Grant plaintiffs and the class they represent a preliminary and permanent injunction enjoining defendants, Monsanto Company and OCAWU, their agents, successors, employees, attorneys, and those acting in concert with them and at their direction from continuing or maintaining the policy,

practice, custom and usage of denying abridging, withholding, conditioning, limiting or otherwise interfering with the rights of plaintiffs to equal employment opportunities.

2. require the defendants to open all positions within the labor, maintenance and operator departments for bidding and require them to refrain from enforcing the discriminatory contract provisions herein complained about in filling said positions;

3. require defendants to desegregate and otherwise open training programs to all employees without regard to their present job classifications which were established on a racial basis;

5. require defendants to compile and use for purposes of promotion discharge, retention, etc., a single seniority list based on length of service to the company; and

6. enjoin the BCASU from refusing or otherwise failing to represent the interest of the Negro employees in the same fashion it represents its white employees in the collective bargaining process.

Plaintiffs further pray that this court grant them their costs, reasonable attorney's fees, and such other, additional or alternative relief as the Court may determine to be equitable, just and reasonable.

Respectfully submitted,

JOHN W. WALKER
1304-3 Wright Avenue
Little Rock, Arkansas

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

NEW ORLEANS DIVISION

ROBERT HICKS, et al. Plaintiffs

v. Civil Action No. 16638

CROWN ZELLERBACH CORPORATION, et al. Defendants

SEPARATE ANSWER OF DEFENDANTS

INTERNATIONAL BROTHERHOOD OF PULP, SULPHITE AND PAPER MILL WORKERS, MAGIC CITY LOCAL NO. 362, IBPSPMW, and BOGALUSA LOCAL NO. 624, IBPSPMW

Defendants International Brotherhood of Pulp, Sulphite and Paper Mill Workers and its Local Unions No. 362 and 624 (hereinafter called defendant unions), for their answer to the complaint and amended complaint, hereby state:

1. Defendant unions admit that this court has jurisdiction of this action by virtue of the Civil Rights Act of 1964, 42 U.S.C. § 2000(e), et seq. Defendants deny the remaining allegations of paragraph 1 of the complaint and paragraph 1 of the document entitled "amended complaint."

2. Defendant unions admit the allegations of paragraph 2 of the complaint.

3. Defendant unions deny the allegations of paragraph 3 of the complaint.

4. Defendant unions admit the allegations of paragraph 4 of the complaint, except that the term "plants" may not be an accurate characterization.

5. Defendant unions admit that International Brotherhood of Pulp, Sulphite and Paper Mill Workers and its local unions Magic City Local No. 362 and Bogalusa Local No. 624, are labor organizations representing employees in industries affecting commerce, within such definitions in Section 2 of the National Labor Relations Act, as amended, 29 U.S.C. § 152. Defendant unions admit that the headquarters of the International Union is Fort Edward, New York, that it functions throughout the country, and that it has in excess of 100 members. Defendant unions admit that the International Union and its Locals 362 and 624 have exclusive bargaining rights for a unit of employees of defendant Crown Zellerbach Corporation in Bogalusa, Louisiana. Defendant unions deny all remaining allegations of paragraph 5 of the complaint and paragraph 2 of the document entitled "amended complaint."

6. Defendant unions deny the allegations of paragraph 6 of the complaint except insofar as they are admitted in paragraph 5 of this answer.

7. Defendant unions deny the commission of any legally cognizable violation of equal employment opportunity under any applicable law. Defendant unions are without knowledge sufficient to admit or deny the remaining allegations of paragraph 7 of the complaint.

8. Defendant unions deny the allegations of paragraph 8 of the complaint.

9. Defendant unions deny the allegations of paragraph 9 of the complaint.

10. Defendant unions are without knowledge sufficient to admit or deny the allegations of paragraph 10 of the complaint.

11. Defendant unions deny the allegations of paragraph 11 of the complaint.

12. Defendant unions deny the allegations of paragraph 12 of the complaint.

13. Defendant unions deny the allegations of paragraph 13 of the complaint.

14. Defendant unions deny the allegations of paragraph 14 of the complaint.

15. Defendant unions deny the allegations of paragraph 15 of the complaint.

16. Defendant unions deny the allegations of paragraph 16 of the complaint.

17. Defendant unions are without knowledge sufficient to admit or deny the allegations of paragraph 17 of the complaint.

18. Defendant unions deny the allegations of paragraph 18 of the complaint.

19. Defendant unions deny the allegations of and oppose the relief demanded by the prayer for relief of the complaint and paragraphs 3 and 4 of the document entitled "amended complaint."

20. Further answering, defendant unions state that its operations in the bargaining unit in question have been in strict conformity with the requirements of the Civil Rights Act of 1964.

21. Further answering, defendant unions state that the plaintiffs are barred from prosecuting this action by failure to execute certain conditions precedent, including but not limited to the following:

(a) prosecution of grievances or other actions under the applicable collective bargaining agreement,

(b) prosecution of internal remedies within the structure of the defendant unions, and

(c) prosecution of requests for administrative action before the Equal Employment Opportunity Commission under the Civil Rights Act of 1964.

22. Further answering, defendant unions state that the relief sought by the plaintiffs is not truly responsive to requirements of the Civil Rights Act of 1964, but is an unwarranted intervention into the collective bargaining process protected and reserved to the defendants by the National Labor Relations Act, as amended, 29 U.S.C. § 141 et seq. and the Civil Rights Act of 1964, 42 U.S.C. § 2000(e) et seq.

For the above reasons, among others, it is respectfully urged that the complaint and the amended complaint be dismissed, and that defendant unions be awarded their costs, including reasonable attorneys fees, and all other relief to which they be found entitled.

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Little Rock, Arkansas 72201

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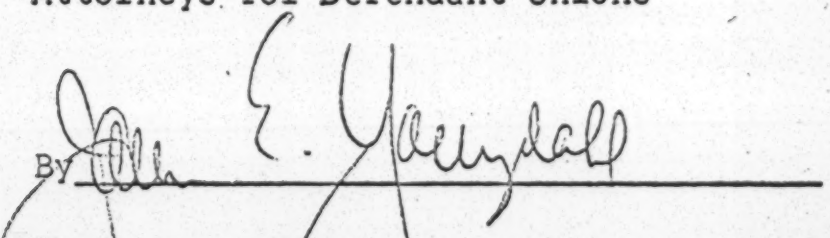
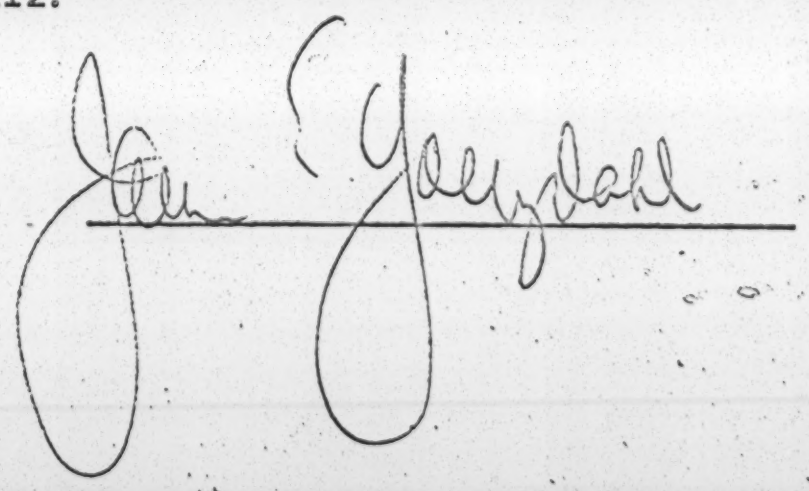
By 

CERTIFICATE

I hereby certify that I have, this 5 day of August, 1966, mailed a copy of the foregoing Separate Answer to attorneys of record for all parties, as follows: Mr. Jeremiah S. Gutman, Collins, Douglas & Elie, 2211 Dryades Street, New Orleans, Louisiana 70113; and Mr. Michael J. Molony, Jr., Jones, Walker, Waechter, Poitevent, Carrere & Denegre, 225 Baronne Street, New Orleans, Louisiana 70112.



UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

NEW ORLEANS DIVISION

ROBERT HICKS,	*	
	*	
PLAINTIFF	*	
	*	
v.	*	CIVIL ACTION
	*	
CROWN ZELLERBACH CORPORATION, THE INTERNATIONAL BROTHERHOOD OF PULP, SULPHITE AND PAPER-MILL WORKERS, MAGIC CITY LOCAL NO. 362, OF THE INTERNATIONAL BROTHERHOOD OF PULP, SULPHITE AND PAPERMILL WORKERS, BOGALUSA LOCAL 624 OF THE INTERNATIONAL BROTHERHOOD OF PULP, SULPHITE AND PAPERMILL WORKERS,	*	NO. 16,638
	*	DIVISION "B"
	*	
DEFENDANTS	*	

MOTION TO DISMISS

Defendant, CROWN ZELLERBACH CORPORATION, moves the Court:

I.

To dismiss the complaint filed by Plaintiff herein because

(a) It fails to state a claim upon which relief can be granted in that Plaintiff has failed and/or refused to comply with the requirements of Title VII of the Civil Rights Act of 1964 (42 U.S.C.A. §2000e-5(d) and (e);

(b) The Plaintiff has no right or standing to institute a class action because there are no questions of law and fact common to any class or group of employees so that the Court cannot grant injunctive or other relief in this proceeding with respect to any persons other than Plaintiff.

II.

Alternatively, Defendant moves the Court for an order

pursuant to Rule 12f of the Federal Rules of Civil Procedure to strike from the Complaint the following specified allegations for the reason that they are immaterial, irrelevant and impertinent, no evidence would be admissible in support thereof and are calculated to create prejudice against Defendant:

(a) Paragraph 1(b) of the original Complaint and Paragraph 1 of the Amended Complaint for the reason that jurisdiction over Complaints involving alleged unlawful employment practices is conferred exclusively by the Civil Rights Act of 1964 (42 U.S.C.A. §2000e-5);

(b) Paragraph 3 in its entirety for the reason that Plaintiff does not represent a class within the meaning of Rule 23 of the Federal Rules of Civil Procedure;

(c) Paragraph 7 for the reason that under the provisions of Title VII of the Civil Rights Act of 1964, Plaintiff's rights are limited only to seeking redress for specific alleged violations of the Act as they pertain to Plaintiff which have been the subject of a charge in writing under oath filed with the Equal Employment Opportunity Commission;

(d) Paragraph 8(a) for the reason that these allegations pertain to alleged discrimination in employment practices occurring prior to the effective date of the Civil Rights Act of 1964 (July 2nd, 1965);

(e) Paragraph 8(b)(1) for the reason that the allegations contained therein refer to Negro employees of Defendant generally and are not limited to the individual charges by Plaintiff of discrimination as to him which were the subject of the Complaint filed by him with the office of the Equal Employment Opportunity Commission;

(f) Paragraphs 10, 11, 12, 13 and 14 for the reason that these allegations refer to alleged unlawful employment

practices involving persons employed in plants, divisions or departments other than the plant and department in which Plaintiff is employed and do not affect Plaintiff or involve the unlawful employment practices charged by Plaintiff in writing and filed by him with the Equal Employment Opportunity Commission.

(b) The first sentence of Paragraph 15 for the reason that this allegation pertains to alleged discrimination in employment practices occurring prior to the effective date of the Civil Rights Act of 1964 (July 2nd, 1965).

November , 1966

MICHAEL J. MOLONY, JR. of JONES, WALKER, WAECHTER, POITEVENT, CARRERE & DENEGRE
225 Baronne Street, 28th Floor
New Orleans, Louisiana 70112
Phone 523-6641
Attorneys for Defendant, Crown-Zellerbach Corporation

C E R T I F I C A T E

I hereby certify that a copy of the above and foregoing Motion to Dismiss has been sent to all interested counsel of record, by depositing same in the U. S. Mail, postage prepaid, this_____day of November, 1966.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

ROBERT HICKS, individually and on behalf of all others similarly situated, Plaintiffs, v. CROWN ZELLERBACH CORPORATION, THE INTERNATIONAL BROTHERHOOD OF PULP, SULPHITE AND PAPER MILL WORKERS; MAGIC CITY LOCAL NO 262 OF THE INTERNATIONAL BROTHERHOOD OF PULP, SULPHITE AND PAPER MILL WORKERS AND BOGALUSA LOCAL 624 OF THE INTERNATIONAL BROTHERHOOD OF PULP, SULPHITE AND PAPER MILL WORKERS, Defendants	CIVIL ACTION NO. 16638 AMENDED COMPLAINT

Pursuant to Rule 15 (a), Federal Rules of Civil Procedure which allows a party to amend his pleading once as a matter of course at any time before a responsive pleading is served and as defendants have not served a responsive pleading, plaintiffs in the above captioned suit amend their complaint in the following respects

1. To add the following allegations to paragraph 4 of the section on "Parties":

"Defendant Corporation is licensed to do business in Louisiana and its employment contracts are enforceable by virtue Louisiana State law. Defendant's discrimination against Negroes reflects a long-standing State practice, custom, and usage. Defendant's enforcement of its discriminatory policies is a misuse of power possessed by virtue of State law, custom, and usage. This enforcement is made possible only because defendant is clothed with authority by virtue of state law, and its action "under color of State law, custom, or usage."

2. To add the following allegations concerning the defendant-labor unions of the section on "Parties".

"The International Union and Magic City Local No. 262 are responsible for the plant discrimination by the company in that they actively support, encourage, and acquiesce in such discrimination or, in the alternative, that they are parties to the collective bargaining contract which supports such discrimination.

Bogalusa Local No 624 is a Negro local, of which the plaintiff is a member. Although said local does not actively support and encourage racial discrimination against plaintiff and members of his class, it indirectly contributes to discrimination by virtue of its being a party to the collective bargining contract."

BEST COPY AVAILABLE

3. To add to the prayer for relief the following sub-paragraph enjoining the defendant labor unions:

(c) from any act or action that would force aid, assist or in anyway help defendant Crown Zellerbach to continue its practices in violation of Title VII of the Civil Rights Act of 1964 42 U.S.C. Sec. 2000 e et seq.

4. To amend the prayer for relief so that the following subparagraphs of paragraph of the prayer for relief will read:

d. From permitting existence of plant facilities on any basis which leads to segregated facilities, including lockers, showers, and restroom facilities, and from failing to re-assign lockers on an alphabetical-numerical, seniority-numerical, or other non-discriminatory basis.

e. From permitting the existence of segregated lines of progression within a department, and from failing to merger the lines of progression in:

1. the Corrugator department in which the formerly Negro line of progression will then lead directly into the formerly white line of progression, the order of jobs being: (1) Porter, (2) Take-Off Man, (3) Rod Man, (4) Slitter Man, (5) Glue Pan Man, etc.

2. the Pactor Department, in which the formerly Negro line of progression will then lead directly into the formerly white line of progression, the order of jobs being: (1) Sparehand, (2) Trucker, (3) Take-Off Man, (4) Rod Man, (5) Slitter Man, (6) Fleet Helper, (7) Operator.

3. the Over-The-Road Trucking Department, in which the line of progression in ascending order shall be (1) Service Man, (2) Trucker.

f. From causing any Negro who transfers from a traditionally Negro department, line of progression, or job, to a predominantly white Department, line of progression, or job, to lose his seniority in the group from which he transferred, and from preventing him from being returned to his former slot in the event of a cut back.

g. From failing to restore the "scale man" job to the Negro line of progression in the shipping department from failing to remove the present assistant foreman, and from failing to open bidg on these jobs to the Negroes in the line of progression with the highest plant seniority.

COLLINS, DOUGLAS & ELLIS
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BY: /S/ MILES R. DOUGLAS

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Postal Reform

Labor

The union war on postal reform

Opposed to Nixon's corporate concept for the Post Office, postal unions attack it through friends on Capitol Hill

The postal unions don't like President Nixon's formula for converting the Post Office from a deficit-ridden federal agency to a money-making, government-owned corporation. And when the postal unions don't like something, they take their case to Congress. There—in the words of former Senator and Republican National Chairman Thruston B. Morton—"they are right effective politically."

The postal unions are waging an all-out fight against the Administration's postal reform bill in the corridors of Congress. The unions do not oppose the reform goal. They do oppose the corporate concept, and particularly the bill's blueprint for collective bargaining. They would prefer a substitute bill proposed by Representative Thaddeus J. Dulski (D-N. Y.), which would reform Post Office procedures while retaining government ownership and Congressional control of Post Office wages.

"We're all in favor of reform," says Patrick Nilan, legislative director of the United Federation of Postal Clerks. "I think we are in dire need of reform, but I also think we ought to crawl before we walk."

"We're all for postal reform—it's long overdue," says David Silvergleid, president of the National Postal Union. "We were in favor of postal reform long before Larry O'Brien ever became Postmaster General," says James H. Rademacher, president of the National Assn. of Letter Carriers.

A lot of votes. Among them, the three unions represent more than 400,000 of the Post Office Dept.'s 750,000 employees. That means a lot of votes and potentially a lot of precinct workers, as postal union lobbyists are skilled at pointing out.

President Johnson's Postmaster General, Lawrence F. O'Brien, first proposed a corporate structure for the Post Office two years ago. Johnson appointed a commission to explore the idea. The commission, headed by Frederick R. Kappel, former chairman of American Telephone & Telegraph, championed the concept, and Johnson formally proposed it.

President Nixon carried the ball from there. He directed his Postmaster General, Winton M. Blount, to develop a reform program based on the corporate structure. The result is receiving strong support from the Administration, and from Morton and O'Brien, both former chairmen of their political parties and masters of Congressional maneuver.

The test. Apparently their mastery will be put to the test on the Administration Post Office bill. The postal unions have made clear that they will accept no reform bill without revisions of the Administration's proposed procedures for settling labor-management disputes.

The Administration bill currently provides for private sector-style collective bargaining, with a "postal disputes panel" of nine members responsible for settling any dispute that arises. The panel would have a "broad array of settlement techniques" at its command to deal with bargaining table impasses. Like other federal employees, postal workers do not have the right to strike—and would not under the Administration bill.

The unions want no part of this arrangement. They say they want the right to strike over money issues and to arbitrate all other areas of disagreement.

Actually, the postal unions know perfectly well that the federal government is not going to make an exception for them under the blanket ban against strikes by all federal workers. The Nixon Administration, for its part, is equally disingenuous in arguing that the bill already provides for compulsory arbitration.

Arbitration is only one of the settlement techniques available to the postal disputes panel. And of all the settlement techniques, only arbitration is binding. Presumably, the postal corporation management could reject a panel recommendation reached by other means with no risk of legal penalty or of provoking a legal strike.

"Blount wants to bring us under the provisions of the Taft-Hartley and Landrum-Griffin laws without giving us the right to strike that goes with them, and without providing compulsory, binding arbitration instead," Silvergleid says. "If we have to bargain collectively, we have to have the right to strike on money."

Compromise. Recently, officials close to the situation have begun to suggest that "there are indications the Administration fully intends to grant compulsory arbitration, but wants to use it as a fallback position for compromise." Nilan of the Postal Clerks insists that arbitration by itself is not enough. But many Capitol Hill observers believe that the unions will settle for it if it appears likely that some

Representative Dulski proposed the reform bill preferred by unions.

Unionist David Silvergleid calls Nixon bill "short end of the stick for postal workers."

Winton Blount pushes reforms on corporate lines Nixon seeks.

corporate reform bill will pass Congress.

The situation is complicated by the fact that the postal unions have never practiced—or sought—collective bargaining. Their methods and history are entirely different from those of such government employee unions as the American Federation of Government Employees (for federal workers), the American Federation of State, County & Municipal Employees, or the American Federation of Teachers. These limped along for years, lobbying as best they could and pushing for bargaining rights, until President Kennedy's Executive Order 10988 directed federal agencies to bargain over working conditions with unions that represented a majority of the agencies' employees.

Union strength. The postal unions were strong long before President Kennedy's 1962 executive order. Their weapon was lobbying, and most congressmen rate them as experts at it. The reputations of most postal union leaders rest on their familiarity with congressmen and their effectiveness in translating this familiarity into benefits for members. For many years, the postal unions set the pattern for wage gains for other government employees. Now, the proposal for a postal corporation threatens to upset the applecart.

Silvergleid summarized the union position in a recent statement entitled, "The Postal Corporation: A Trojan Horse."

"Postal workers have recourse to Congress, where we have bargaining leverage because of our contacts with the voters we serve," he said. "Our wages attest to the fact that we hold no big club over the Congress. We are satisfied, nonetheless, that we can make progress, and we will not give up our recourse to Congressional petition for wage increases unless we are armed with the right to strike. The Administration bill would deny us the right to strike while taking away the right of Congress to establish our wage rates." In brief, the bill "represents the short end of the stick for postal workers."

Union confidence. Silvergleid and other postal union spokesmen feel their members would get a better deal under the bill proposed by Representative Dulski, chairman of the House Post Office & Civil Service Committee. Dulski's reforms involve no change to a corporation.

The unions seem moderately confident that Congress, which is traditionally reluctant to give up the power to set Post Office wages, will ultimately pass a bill closer to the Dulski model than to the Administration bill. "The way things are going, I think you're going to get a bill that Blount says he can't live with, a compromise based on the Dulski bill," Rademacher predicts. Other Capitol Hill observers are not so sure.

All three unions agree there is little chance of any bill getting through Congress this year, but they think there will be Post Office legislation before the 91st Congress calls it quits next year.

An 18-car trainload of modules built by Stirling Homex winds through Tennessee

to make it economical for a producer to ship by rail over distances as small as 300 mi. and then ranging up to 1,000 mi.

Two weeks later, the General Services Administration—representing HUD and the modular industry as well—proposed new trainload rates to each of the railroads' three regional rate-making bodies. The GSA suggested $16.57 per train-mile for a 300-mi. haul, dropping to $12.12 per train-mile for 1,000 mi. This contrasts with the flat rate of $18 per train-mile, effective May 15, set by the Southern Freight Assn., and with unpublished "guidelines" of the Eastern railroads, which offer a trainload rate of $5,750, plus $17.25 per route-mile on a 2,400-ft. train with maximum weight of 1,600 tons. If Levitt had this latter rate available on its Seattle shipment, total cost would be $89,000 instead of $150,000.

Alternatives. HUD asked the rail ratemakers to hold a public hearing, and Chairman C. S. Baxter of the Traffic Executives Assn. (Eastern Railroads) expects it to be held late in June. But rail executives are already stating their case. They point out that most modules need special handling and routing because they are so wide. Penn Central marketing executive R.T. Schoonmaker cites a 12-ft-wide Levitt module that traveled 900 mi. by rail from Michigan to Maryland. It could have used a route 300 mi. shorter, he says, if it had been 1½ ft. narrower.

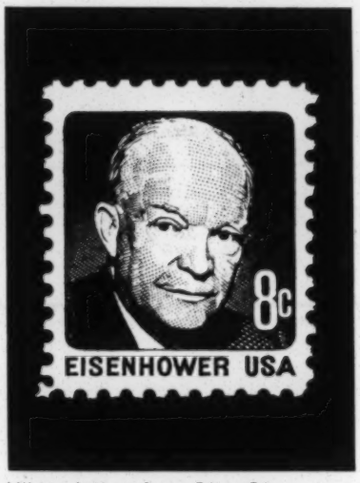
Meanwhile, some modular producers are trying another mode of transport: the barge. "Barging presents no clearance problems," notes Carl J. Liba, transportation consultant at Reebie Associates of Greenwich, Conn. And one Reebie client, Stirling Homex, is locating its second plant on the inland waterway at Gulfport, Miss., so it can float its wares to market. ■

COMMUNICATIONS

Businessmen fight the new mail rates

At post offices throughout the country this week, people lined up silently and meekly to buy the new 8¢ stamps required to mail a first-class letter that could have gone for 6¢ two days before. Businessmen, however, were not so quiet. They grumbled as they reset postage meters or sent secretaries out to buy 2¢ stamps to use along with the millions of 6¢ ones still on hand.

In Washington, prodded by such business clients as the Magazine Publishers Assn., the American Newspaper Publishers Assn., and the Associated Third-Class Mail Users, a battery of weary lawyers prepared to fight the "temporary" rate increases put into effect by the Post Office Dept. After the first few days of hearings before the new Postal Rate Commission, which are expected to drag on until midsummer or later, few of the lawyers are optimistic.



Hiking letters from 6¢ to 8¢ will raise an extra $1.1-billion.

"Legally," says an attorney who represents the Magazine Publishers Assn., "it's pretty clear that a rollback is required. But when you consider the economic problems and the administrative difficulty of such a move, it just isn't likely."

Before the hearings, the lawyers spent weeks battling the proposed increases through U. S. District Court and to the doorstep of the Supreme Court, which refused to bar the new rates. Now they hope that continued pressure on the commission will induce it to make concessions in any "permanent" increases that follow the hearings after July 1, when the new U. S. Postal Service begins operating as a semi-independent corporation.

"Perhaps they will increase first-class and reduce second-class, or space out the increases over a longer period, or something," says the despairing MPA attorney.

Broad aim. The second-class and third-class rates, which affect magazine and newspaper publishers and direct-mail advertisers, are under fire for a basic reason. The increases, from 20% to 33%, are no larger than the first-class increase from 6¢ to 8¢, but the mailers are organized. An official of ANPA says: "We're not fighting for reductions in the second-class mail rates alone; we're fighting for everybody. The little guy isn't organized to protest 8¢ stamps, but he's stuck with it just as we are stuck with these high costs."

As an example of the costs involved, Time Inc. estimates that its second-class postage bill will be $2.2-million higher this year because of the increase. McGraw-Hill Publications Co., which distributes some 19 magazines by second-class mail, estimates that between May 16 and Dec. 31 it will pay 18% more—or roughly $200,000—in postage. *Business Week* alone will be hit with an increase of 23%, or $99,000. *The New York Times*, which mails only 30,000 copies of its 900,000 daily press run, will pay $2,400 a day more ($27,000 more on Sundays) to reach distant subscribers. Chase Manhattan Bank, which moves over 30-million pieces of mail a year, says the increases will add an additional $297,600 in 1971 to its $4-million postal bill.

At Chapman Benson Wunderman, Inc., which prepares advertising mail for such clients as Columbia Record Club and Time-Life Encyclopedias, President Robert D. Chapman notes that the postal increases have already led to a "very cautious attitude" on the part of some advertisers. "They might cut back on some plans," he says, although he admits that the postage problems are just one factor in some clients' uneasy business outlook. He thinks the rate increases are discriminatory, "because third-class mail helps support first-class."

Postal authorities deny any discrimination, pointing out that the first-class rate increase will produce an expected $1.1-billion in additional revenues in fiscal 1972, while the second-class boosts will produce only about $260-million. Even with the new first-class rates, says the department, mailing a letter is still a bargain: Since 1932, the price has gone up 166%, while wholesale prices and salaries climbed much more.

Such arguments get scant notice from publishers who must pay the new rates to get copies to subscribers currently locked into two-year, or even five-year, subscriptions at bargain rates. And their protests are as likely to go unheeded by the postal system, which has included $1.4-billion in income from the new rates in its budget for the year beginning July 1—and still figures to run a $1.4-billion deficit. ■

Zenith tunes in on a new president

Zenith Radio Corp. confirmed at midweek that a former Ford Motor Co. vice-president, John J. Nevin, has been named president of the Chicago-based maker of home entertainment equipment. The announcement followed a spate of rumors that started last week when Nevin, 44, resigned as head of Ford's Customer Service Div.

Nevin

Despite the rumors, Zenith officials coyly declined comment on questions about Nevin. Meantime, on the eve of Zenith's official disclosure, one of Nevin's bosses at Ford, William D. Innes, told a group of Detroit newsmen in a prepared speech that he was sorry that Nevin was leaving but that he was delighted to see Nevin "move in to such a fine position as his new one at Zenith."

Nevin, who was regarded as a man on the rise at Ford, moves into a job filled by Zenith Chairman Joseph S. Wright since April, 1970. Wright assumed the position after the sudden death of Sam Kaplan.

Other changes in Zenith's top management structure prompted speculation that Zenith would tap an insider for the president's job when Wright and the directors found the right man. The Zenith executive regarded as the strongest candidate was Robert S. Alexander, 62, who emerged from last spring's shuffle as executive vice-president of operations.

As it turns out, Alexander will stay in the same job. And even though Zenith did go outside for a new president, the company's chief executive title remains with Wright. Nevin will be the chief operating officer.

By choosing Nevin, Zenith acquired an executive with a reputation as a strong product and marketing man. Both areas are crucial to Zenith in the highly competitive consumer electronics field and its continuing battle for the No. 1 spot with RCA Corp. in television sales. Nevin may give Zenith an important competitive edge in the seesaw race.

Says Donald F. Johnstone, acting general manager of General Electric Co.'s television products department: "Our view is that they have even overtaken RCA in the television line." ■

Anaconda turns to a money man

The Anaconda Co., whose troubles seem only to mount, this week deposited its presidency with a banker—Chase Manhattan's Vice-Chairman John B. M. Place, 45. The big copper producer's chairman, C. Jay Parkinson, 62, said that when the directors consider Place's nomination next week, he will relinquish the company's chief executiveship to him as well.

Place shared (with Vice-Chairman George A. Roeder, Jr.) the No. 3 spot at the nation's second largest bank, supervising all of Chase's domestic and international banking activities. He was once considered a candidate for the No. 2 spot under Chairman David Rockefeller but was stymied by the election of Herbert P. Patterson, also 45, to Chase's presidency late in 1968. Rockefeller, meanwhile, is 55 and could be a decade away from retirement.

Besides finally getting a post with ultimate responsibility, Place moves from a $135,000-a-year slot into a position where his predecessor, John G. Hall, 54, received $154,000 in salary and

A cliff-hanger for Fox shareholders

New York stockbroker Charles M. Lewis, leader of dissident stockholders who have waged a bitter fight to take over Twentieth Century-Fox Film Corp., read off the names of the insurgents' proposed 12-man slate of new directors at Fox's annual shareholders' meeting this week (below). But when the meeting adjourned after 1 hour and 23 minutes, neither he nor anybody else knew whether the insurgents had succeeded in ousting Fox's present 15-man board.

That had to be anticlimactic for the 100 people who gathered at the Playhouse Theater in Wilmington, Del., for the vote to determine who shall manage the troubled film-maker, which has lost $114.1-million over the last two years. Instead, they got little more than a rehash of the statements both sides have made in recent weeks in full-page newspaper ads and letters to Fox stockholders.

Dennis C. Stanfill, Fox's new president, insisted that Fox had already embarked on a "new era" as a result of numerous changes made recently at the company.

Speaking for the insurgents, Malcolm B. Kahn, who oddly enough is production head of Wylde Films Corp., a Fox subsidiary, reiterated that a new management was needed. "The record," he snapped, "screams for itself."

Just before the meeting, Darryl F. Zanuck, who helped found Fox in the 1930s, officially bowed out of its top management by declining to run for re-election as Fox's chairman.

But the mystery of who will wind up running Fox remains unsolved, and the company says the results of the balloting will not be made known until the board reconvenes in New York on June 8.

C O P Y

June 7, 1971

The Honorable Winton M. Blount
Postmaster General
United States Postal Service Department
Washington, D. C. 20260

Dear Mr. Blount:

On April 7, 1971, the undersigned organizations wrote you asking that an investigation of the Little Rock, Arkansas Post Office be conducted. In this letter we reported to you our concern that Black employees were being systematically excluded from supervisory positions and that the normal channels for processing grievances were thoroughly distrusting by many Black employees.

To date we have had no reply to our letter. No investigation has been conducted. Leaders of our organizations were invited to Postmaster Roy Sharpe's office to meet with a group he referred to as "an investigating committee." But this group which had been sent from St. Louis told us that they had no authority to conduct an investigation to hear grievances from employees or even to tell us about what they referred to as "internal matters" of the Little Rock Post Office. They said that they had been sent to "restore communications between the Post Office and the Black community."

In this meeting the communication was almost entirely one way. The committee did not seem interested in hearing the grievances that we had been hearing from postal employees and repeatly told us that they were not authorized to discuss such things. They presented us with a number of statistics about the Black employees in various departments, statistics which generally agreed with those we had assembled on our own. They also explained how employees are hired and promoted. This explanation made it clear that the matters about which we have the most serious complaints are precisely those matters in which the discretion of the postmaster rather than the clearly-written provision of the governing regulations is the determining factor.

We told this committee that their information had deepened our conviction that an investigation was badly needed and expressed our hope that they recommend one take place. Thus far, we have no indication that there actually will be an investigation. We find this whole procedure highly unacceptable unless it results in the investigation that we have requested and we again reiterate our demand that this be done. In the event that an investigating committee be sent from Washington, we suggest that unlike the previous group that they

COPY

go first to those grievances, rather than spending a full day consulting postal officials before they so much as speak with any community representatives. Since our first letter was sent to you, there has been no apparent change in the policies of the Little Rock Post Office. Moreover, as a result of the publicity that our original charges received, several additional and equally serious complaints from Black postal employees have come to light. We look forward to the opportunity to discuss this entire matter with an investigating committee from your office in Washington.

Sincerely,

Elijah Coleman

Elijah Coleman, Executive Director
Arkansas Council on Human Relations
600 West Ninth - Suite 210
Little Rock, Arkansas 72201

Howard Love

Howard Love, Executive Director
The Urban League of Greater Little Rock
914 Gaines Street
Little Rock, Arkansas 72202

Andrew Fingers

Andrew Fingers, President
Little Rock Chapter of N. A. A. C. P.
2109 Izard Street
Little Rock, Arkansas 72206

T E Patterson

T. E. Patterson, President
Leadership Roundtable
P. O. Box 1255
Little Rock, Arkansas 72203

W. H. Townsend

Dr. William H. Townsend, 1st Vice Chairman
The Arkansas Council on Human Relations
1304 Wright Avenue
Little Rock, Arkansas 72206

Jerry D. Jewell/gw

Dr. Jerry D. Jewell, President
Arkansas State N.A.A.C.P.
105 East 2nd Street
North Little Rock, Arkansas 72114

cc: The Honorable Richard M. Nixon, President
Mr. James H. Rademacher, President, National Assoc. of Letter Carriers
The Honorable Edward W. Brooke
The Honorable Shirley Chisholm
The Honorable Louis Stokes
The Honorable William L. Clay
The Honorable Parren J. Mitchell
The Honorable George W. Collins
The Honorable Ralph H. Metcalf
The Honorable Samuel J. Simmons
Mr. Paul Anthony, Southern Regional Council
The Honorable Robert N. C. Nix
The Honorable Augustus F. Hawkins
The Honorable Charles C. Diggs
The Honorable John Conyers, Jr.
The Honorable Charles B. Rangel
The Honorable Ronald V. Dellums
Miss Semoria Johnson, Washington Bureau Urban League
Mr. Harold Simms, National Urban League
Mr. Clarence Mitchell, Washington Bureau N.A.A.C.P.
Mr. Roy Wilkins, N.A.A.C.P., New York
Mr. George E. Johnson, United States Postal Service

June 10, 1971

The Honorable Winton M. Blount
Postmaster General
United States Postal Service Department
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20260

Dear Sir:

We have received a copy of the April 22, 1971 letter to you from several leaders of organizations in Arkansas. They call your attention to the employment situation in the Little Rock Post Office.

These are responsible agencies with a committment to ending discrimination in our society. Their complaint should be given the most careful attention. We urge your agency to immediately take steps to investigate the facts and charges alleged. Of course, if they prove to be true or if any discriminatory effect is found, we trust that you will cause appropriate action to be taken.

Sincerely,

Paul Anthony, Executive Director

PA/gms

June 10, 1971

Mr. Robert F. Hampton, Chairman
United States Civil Service Commission
1900 "E" Street, N.W.
Washington, D.C. 20415

Dear Mr. Hampton:

Enclosed are copies of correspondence to Postmaster General Blount.

This matter should be of equal concern to the Civil Service Commission.

Sincerely,

Paul Anthony,
Executive Director

PA/gms

UNITED STATES CIVIL SERVICE COMMISSION
BUREAU OF PERSONNEL MANAGEMENT EVALUATION
WASHINGTON, D.C. 20415

IN REPLY PLEASE REFER TO
PME:INF
711573
YOUR REFERENCE

JUL 6 - 1971

Mr. Paul Anthony
Executive Director
Southern Regional Council, Inc.
5 Forsyth Street, N.W.
Atlanta, Georgia 30303

Dear Mr. Anthony:

This is in response to your letter of June 10, 1971, with which you sent a copy of correspondence to Postmaster General Blount concerning equal employment practices at the Little Rock, Arkansas Post Office.

While the Civil Service Commission has certain overall responsibilities for assuring equality of opportunity in all Federal agencies, the primary responsibility for equal employment opportunity in a particular agency rests with the head of the agency. Each department or agency considers individual complaints of discrimination in accord with procedures established by the Commission for that purpose. In addition, each agency or department must have procedures for reviewing and reporting on general allegations of discrimination received from organizations or other third parties.

When we receive a general allegation of discrimination such as that provided by you, we forward it to the agency or department involved. We ask them to investigate the complaint and to give us a copy of the report of their findings. We then review the report and take any additional action required and within our authority. Since your complaint involves a Postal facility, we have forwarded it to the Honorable Lawrence C. Gayle, Assistant Postmaster General, United States Postal Service, Washington, D. C. 20260. We have asked him to look into the complaint and to give us a copy of the report of his findings and any action taken.

The Dallas Region of the Civil Service Commission is responsible for reviewing personnel management activities at Federal installations in the Arkansas area. Therefore, we have also sent a copy of your letter to that office so that the information you provided may be considered in the Region's next evaluation of equal employment opportunity in the Little Rock Post Office.

We hope this information is helpful.

Sincerely yours,

Gilbert A. Schulkind

Gilbert A. Schulkind
Director

Fair Employment Practices

SUMMARY OF LATEST DEVELOPMENTS

No. 195 Copy 8-4 August 10, 1972

Route to . . .

Prior Employer Reports

Reliance on adverse reports from prior employers in rejecting job applicants or in discharging employees may be a Title VII violation—unless the applicant or employee is given an opportunity to refute the report, EEOC rules in a recent decision.

The Commission found a company to be acting unlawfully in discharging seven black employees on the basis of unfavorable performance reports from prior employers. A similar decision was reached in an unpublished decision involving a job applicant, according to EEOC.

When a company receives an adverse employment report from a prior employer of a black applicant, EEOC says, "it is significantly more likely that this report will have been influenced by racial discrimination than if the applicant were a Caucasian." Thus, the Commission finds the "clearly forseeable effect" of a policy of "discharging employees on the basis of adverse reports from previous employers, without giving the employees the opportunity to explain such reports, is to subject an appreciably greater percentage of blacks than Caucasians to race-tainted disqualification." (EEOC Decision No. 72-0947)

AT & T Reply To EEOC Charges

The American Telephone & Telegraph Company files its affirmative case with the Federal Communications Commission in reply to EEOC charges of employment discrimination, charging that EEOC has "unjustly maligned" AT & T.

Presenting its side of the case, AT & T emphasizes that:

▶The Bell System has a long-standing and clear and public commitment to equal employment opportunity, and has worked hard to produce what it believes to be an impressive record of accomplishment.

▶The Bell System recognizes much more progress in equal employment is required, and Bell is planning and working to insure that progress.

▶Bell's equal employment plans reflect its best business judgment, and stand a better chance of success than would plans that others might force upon it.

Disagreeing further with EEOC's allegations, AT & T states: "In its zeal in trying this case against the Bell System, the EEOC has failed to recognize that the primary reason the Bell System exists is to provide communications service to the American public, not merely to provide employment to all comers, regardless of ability . . . If the Bell companies were to act upon the EEOC's contentions that they should require less skills or abilities of those whom they hire, it would be difficult to continue quality service."

Testing and Government Jobs

The Civil Service Commission may be brought to court over the much-publicized testing issue, unless it revises alleged discriminatory testing guidelines for government job applicants.

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The NAACP's Legal Defense and Education Fund charges that exam guidelines, proposed by the Commission last month, favor applicants who test well over those who perform well on the job, and that the validation approach is "little more than a justification of the Federal Service Entrance Examination."

An NAACP spokesman notes that although both courts and the EEOC have ruled that a relationship between test scores and job performance must be established when private companies are required to validate employment tests, the federal government has failed to adhere to these standards.

In February, the Urban Institute charged that the FSEE had the effect of rejecting black applicants almost six times as frequently as white applicants. Unless these tests are realigned to measure job performance, "people who have become very proficient in test-taking will advance in the (government) system," while blacks and Spanish-speaking applicants, held back by educational handicaps, will not, an NAACP source observed.

Chicano Demands

Calling for "an affirmative moral commitment" from the White House, five Mexican-American organizations ask President Nixon to issue an executive order requiring federal agencies to set specific goals and timetables to increase the hiring of Spanish-surnamed Americans.

Leaders of the groups claim that in the past two years they have sought unsuccessfully to meet with the President to discuss hiring goals at least ten times and have received only "token response."

President Nixon's 16-point program for assisting Spanish-Americans, issued last fall, fails to set specific goals or timetables, according to the groups. Although Spanish-Americans represent seven percent of the population, they account for only 2.9 percent of the federal government's civilian full-time workforce, the organizations say.

The groups, which filed the petition on behalf of themselves and an estimated 13 million Spanish-Americans, include the League of United Latin American Citizens, the American G. I. Forum, the Mexican-American Political Association, the Spanish-Speaking-Surnamed Political Association, and the Chicano Law Students Association in California.

Bias at General Mills

In a complaint covering charges ranging from discrimination in hiring, promotion, and training programs to the "sexist and racist" portrayal of the Betty Crocker image, the National Organization for Women (NOW), in cooperation with the St. Paul and Minneapolis Urban Leagues, files a class action charge against General Mills.

The complaint charges General Mills with failure to hire and advance women and minority employees to such a degree that "serious questions" are raised about the company's stated affirmative action program. Recent employment figures, instead, show a declining ratio of black employees, according to the complaint. Of the 65 participants in the company's executive training program last year, 64 were white males.

In addition, a NOW spokeswoman, sees the Betty Crocker symbol, longtime trademark of the company, as sexist and racist. "It is the executive concept of what the American woman should be like: white, successful in the home—a woman belongs in the kitchen."

Religious Observance Suits

Two courts considering claims of religious discrimination by Seventh-Day-Adventists reach different conclusions. The U. S. Court of Appeals at New Orleans finds that an employer violated

Title VII when it discharged an employee for refusing to work from sundown on Fridays until sundown on Saturdays. The employer did not demonstrate that it was unable reasonably to accommodate the employee's religious observance or practice without undue hardship on the conduct of its business, the court says in reversing a federal district court. (*Riley v. Bendix Corp.*—CA 5, 4 FEP Cases 951)

However, the Connecticut Supreme Court finds that an employer's discharge of an employee for insubordination in leaving its plant early on a Friday was not a violation of Connecticut's Fair Employment Practice Act. The court notes that a prior arbitration decision held it would be economically impossible for the employer to accommodate itself to the individual schedules of its employees and still maintain a successful and efficient industrial operation. (*Corey v. Avco Corp.*—Conn Sup Ct, 4 FEP Cases 1028)

Relief for Discriminatory Ad

A newspaper reader may be entitled to relief for an airline's discriminatory help-wanted advertisement for "stewardesses," the U. S. Court of Appeals at New Orleans holds, even though the reader never applied for a job with the airline. The reader alleged that he had been turned away because of his sex when he responded to a similar advertisement placed by another airline, and that he felt it would be futile to answer this airline's ad.

For the guidance of a federal district court that had dismissed the reader's action without a written opinion, the appeals court explains why the advertisement was unlawful, outlines what the reader must prove to obtain relief, and indicates what relief should be granted if the reader proves his claim.

The advertisement is unlawful, the court states, because of its use of the feminine term "stewardesses" and its placement solely under a "Help-Wanted—Female" column. To prevail, the court continues, the reader must present sufficient evidence of sex discrimination by the other carrier to inculcate a reasonable belief on his part that applying to the airline involved in the present case was a futile gesture.

Assuming that he proves that he was deterred from applying for a job by reason of the discriminatory ad, it would be proper, the court says, to limit his relief to an injunction against publication of such advertisements and to a requirement that the airline consider any job application that he may choose to submit promptly. (*Hailes v. United Airlines*—CA 5, 4 FEP Cases 1022)

CSC Guidelines on EEO

The Civil Service Commission has given federal agencies detailed requirements for the preparation and submission of equal employment opportunity plans as required by the 1972 amendments to Title VII. These amendments require federal agencies to submit national and regional equal employment opportunity plans to the Commission for review and approval, and the Commission has the authority to require any modifications in the plans it deems necessary to assure equal employment opportunity.

Each agency must submit nationwide equal opportunity plans to the Commission annually according to a timetable included in the instructions, with the first submissions due September 1. Among other features, plans must include training and education programs for upward mobility, certification that officials managing agency EEO programs measure up to Commission standards, and information on the size of staff and the amount of money devoted to the agency's EEO program.

Agencies are cautioned not to rely on broad statements of policy or general intent in their plans. Rather, they are

advised to develop specific programs and goals, with set timetables. They are to aim at achievements that can be reached within the year covered by the plans.

The Commission's directive not only contains the provisions required by the 1972 amendments to Title VII, but covers all affirmative action areas already in effect under Executive Order 11478 (FEP 401:87), which has been the basic guide and authority for federal equal employment opportunity programs until now.

EEOC Again Sues

Westvaco Corporation and Paperworkers Local No. 676 have been charged by EEOC with sex discrimination in employment in violation of Title VII.

The EEOC court suit alleges that both the company and the union deny equal employment opportunities to women at the company's Luke, Maryland plant through a labor-management agreement covering most production employees. The agreement establishes and maintains seniority and job classification systems which allegedly unlawfully discriminate against female employees.

Finally, EEOC's suit maintains that the company discriminates on the basis of sex in advertising, recruiting and hiring, assigns women to lower-paying positions with fewer opportunities for advancement, and that in those jobs held by both men and women, women are required to meet more stringent qualifications. The union and its local affiliate, EEOC says, fails to represent women on an equal basis with males, and cooperates with the company in its unlawful practices.

Iron Workers Found Guilty

Iron Workers Local 40, New York City, is found guilty of discrimination against blacks and Puerto Ricans through its policy of pursuing referral and membership policies that perpetuate past policies of bias.

Although the court concedes that "honest efforts" have been made by the union to end discrimination, "the practice of referral still discriminates in favor of union members, who, as a result of past policy, are predominantly white." Such "neutral practices" which have the effect of continuing past discrimination must be changed, the court rules.

The union is ordered to permit all resident blacks and Puerto Ricans with three years' experience to take the journeyman's exam, with their experience to be verified by impartial examiners. Specific rules for processing of applications in a nondiscriminatory fashion are also outlined.

A further charge, that the admissions policy of the union's Joint Apprenticeship Council is unlawful, is dismissed by the court, which notes that 45 percent of the applications for the JAC's 1970 examination were issued to nonwhites.

Postal Discrimination

Charging that there is not a "major size post office in the country" headed by a black postmaster, the National Alliance of Postal and Federal Employees accuses the U.S. Postal Service of discriminating against blacks in appointments and promotions.

The alliance, an independent, primarily black union with 27,000 members nationwide, claims the Postal Service's EEO program "has never . . . (been) very effective." Alliance president Robert L. White said blacks could be promoted and named to postmasterships if the Service and the Administration "sincerely" wanted to improve the status of blacks. White charged the President with lacking "support and energy" for the black cause.

A spokesman for the Postal Service called the union's charges "ridiculous," adding that the Service's EEO program was "in the forefront" among federal agencies. Of the 42 Postal Service employees at GS-21 or above, he said, 6 are black.

Copy to file: → Nat'l Postal Alliance

21 APR 1972

Mr. Robert F. Hampton, Chairman
United States Civil Service Commission
1900 "E" Street, N.W.
Washington, D.C. 20415

Dear Mr. Hampton:

Enclosed are copies of correspondence to Postmaster Genral Blount.

This matter should be of equal concern to the Civil Service Commission.

Sincerely,

Paul Anthony

The Honorable Winston M. Blount
Postmaster General
United States Postal Service Department
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20260

Dear Sir:

We have received a copy of the April 22, 1971 letter to your ~~for~~ from several leaders of organizations in Arkansas. They call~~ed~~ your attention to the employment situation in the Little Rock Post Office.

These are responsible agencies with a committment to ending discrimination in our society. Their complaint should be given the most careful attention. We ~~trust~~ urge your agency ~~will~~ to immediately take steps to investigate the facts and charges alleged. ~~And~~ Of course, if they prove to be ~~un~~true or if any discriminatory effect is found, we trust that you will cause appropriate action to be taken.

Sincerely,

PA

MAY 3 1971

COPY

April 22, 1971

The Honorable Winston M. Blount
Postmaster General
United States Postal Service Dept.
Washington, D. C. 20260

Dear Mr. Blount:

For sometime now, the undersigned organizations have observed the operations and records of the Little Rock, Arkansas Post Office with regard to hiring and promotion of minority employees. It has existed for years, and the post office local mechanisms that are suppose to discover and correct such patterns are clearly ineffective. We call for a public explanation of the reason or reasons for the gross inequalities among Little Rock postal employees. We also call upon you to instruct those responsible for equal employment within the federal postal service to conduct in Little Rock both public hearings and confidential interviews with black and other minority employees.

We direct your attention to the following facts: As of March 24, 1971, the Little Rock Post Office employed 431 clerks. Three hundred and ninety three of these were white. Thus 91% of all clerks were white. Among recently hired substitute clerks, only 7% were non-white.

Little Rock has one main post office and six sub-stations. In all of these stations, only one black is working at a desk or window where he is visible to the public, and he is assigned to a station in a predominately black area.

There are 57 clerks listed as supervisors. Only one of these is non-white. To our knowledge this one man is the only black who has ever been given a supervisory position by the Little Rock Post Office. (This is also in a predominately black area).

Non-white residents make up approximately 25% of the population of Little Rock. Even in the lower rungs of postal employment where blacks are working, they are not employed in proportionate numbers. Less than 14% of the total number of clerks and carriers, regular and substitute, are black. In the past ten years, hiring and retention of blacks has dropped off drastically. Minority clerks and carriers who retire are being systematically replaced by whites.

We have already stated that only one non-white employee is working as a supervisor. There are no minority representatives at all among inspectors, in the finance department, or in upper management.

The investigatory mechanisms used locally has resulted in the Postmaster exercising almost exclusive control of the Equal Opportunity procedures. A policy that leads to such a situation is plainly inadequate and in need of drastic change. The results are clear here in Little Rock: Although we have complaints brought to us regularly about unfair and discriminatory practices within the Post Office, the investigators working for the Post Office have never found any discrimination at all. In one recent case an employee had the courage to appeal beyond the local level, and the local findings were quickly reversed. But even though this investigation showed that obvious discrimination had taken place, and even though this was reported back to the Little Rock Post Office, the guilty person remains on the job and so far as we know absolutely no punitive or corrective action has been taken.

Other complaints and charges are fully as serious. Employees of the Post Office state that blacks who take tests or even express a desire to become supervisors are frequently harassed as a result. They say that they receive official reprimands and unsubstantiated and unjustified accusations of poor job performance. These are put into their records and then used later as excuses to deny them promotions. If these allegations are valid, it is a serious indictment of the management of the Little Rock Post Office. An investigation is clearly called for. We believe that such an investigation must be held as quickly as possible, and that it should include public hearings and a public announcement of the results. Only in this way can the credibility of the Post Office in Little Rock begin to be re-established.

Sincerely

Elijah Coleman

Elijah Coleman, Executive Director
Arkansas Council on Human Relations
600 West Ninth - Suite 210
Little Rock, Arkansas 72201

Howard Love

Howard Love, Executive Director
The Urban League of Greater Little Rock
914 Gaines Street
Little Rock, Arkansas 72202

Andrew Fingers

Andrew Fingers, President
Little Rock Chapter of N.A.A.C.P.
2109 Izard Street
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P. O. Box 1255
Little Rock, Arkansas 72203

Dr. William H. Townsend, 1st Vice Chairman
The Arkansas Council on Human Relations
1304 Wright Avenue
Little Rock, Arkansas 72206

Dr. Jerry D. Jewell, President
Arkansas State N.A.A.C.P.
105 East 2nd Street
North Little Rock, Arkansas

cc: The Honorable Richard M. Nixon, President
Mr. James H. Rademacher, President, National Assoc. of Letter Carriers
The Honorable Edward W. Brooke
The Honorable Shirley Chisholm
The Honorable Louis Stokes
The Honorable William L. Clay
The Honorable Parren J. Mitchell
The Honorable George W. Collins
The Honorable Ralph H. Metcalf
The Honorable Samuel J. Simmons
Mr. Paul Anthony, Southern Regional Council
The Honorable Robert N. C. Nix
The Honorable Charles C. Diggs
The Honorable Augustus F. Hawkins
The Honorable John Conyers, Jr.
The Honorable Charles B. Rangel
The Honorable Ronald V. Dellums
Miss Semoria Johnson, Washington Bureau Urban League
Mr. Harold Simms, National Urban League
Mr. Clarence Mitchell, Washington Bureau N.A.A.C.P.
Mr. Roy Wilkins, N.A.A.C.P., New York
Mr. George E. Johnson, United States Postal Service

WALL STREET JOURNAL

POSTAL WORKERS

Postal Workers to Picket Over Bargaining Impasses

By a WALL STREET JOURNAL *Staff Reporter*

WASHINGTON—Postal employes plan to begin three days of picketing at post offices around the country today to protest what they describe as "failure of postal management to bargain locally in good faith."

Francis S. Filbey, president of the 300,000-member American Postal Workers Union, said the pickets aren't intended to prevent people from entering or leaving post offices or to bar working employes from crossing picket lines. He said all pickets will be off duty or on leave.

But if the pickets fail to get results, "a strike is always a possibility," the union official warned at a news briefing. He quickly added, however, that the union, which represents postal clerks, maintenance personnel, motor-vehicle operators and many other postal employes, wouldn't officially sanction a strike. Federal law forbids such a walkout, but in 1970 many postal workers struck for higher pay.

The APWU and other postal unions last July negotiated a two-year national contract with the Postal Service, the semi-public corporation that last year replaced the old Post Office Department. But union men gripe that more than 100,000 impasses have developed in local bargaining over such issues as vacation scheduling, sick leave and disciplinary procedures.

MILITANCY WANES among postal-union dissidents despite some rank-and-file gripes.

The militants who sparked illegal strikes in 1970 now emphasize lawful methods of protest in local bargaining disputes with the new Postal Service. Moe Biller, head of the American Postal Workers Union's dissident New York City local, no longer defies APWU leaders; he backs incumbent national president Francis Filbey in his reelection bid. And the once-defiant New York local of the Letter Carriers' Union pledges to refrain from strikes.

Insiders attribute the change to hefty pay boosts negotiated last July, plus job-loss worries in the event of a second strike now. "Postal workers doubt whether they'd again escape reprisals," says one. Adds another: "The bread-and-butter issue that made people strike in 1970 no longer exists. So the hotheads know they couldn't again get nationwide support for a walkout."

W-S J 5/30/72

But APWU head Filbey authorizes national picketing to protest local bargaining woes. One reason: to win militants' votes in the June election.

• • •

most recently in New Orleans.

Pub Empl. Union — South

City Workers Pick Laborers In Birmingham

6/10/72

AFL-CIO News

Birmingham, Ala.—City workers here overwhelmingly chose to be represented by the Laborers—by a ratio of 10-1—and negotiations already are under way to secure an initial collective bargaining agreement that will cover the 1,300 municipal workers.

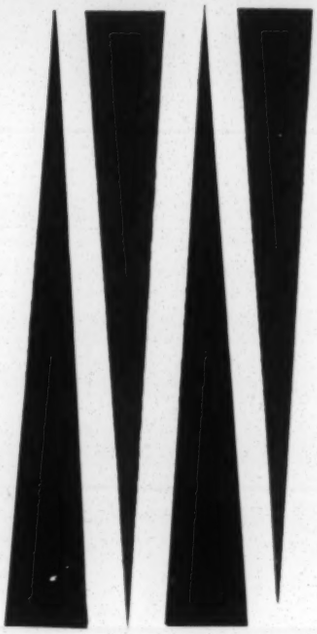
Laborers Pres. Peter Fosco hailed the Birmingham victory as "a major breakthrough, not only for public employes in Alabama, but all over the south." Fosco predicted the "coming of a new day for southern workers" as a result of recent strides made by the Laborers and other unions.

Of those eligible to vote, 1,100 turned out for the election, casting 965 ballots for the Laborers and 87 for no union. There were 48 challenged ballots.

The Laborers' win here follows a victory in March in the capital city of Montgomery where the union was recognized as the bargaining agent for 800 public works employes.

Within the past year, the Laborers have organized employes at the University of Alabama at Tuscaloosa and at three Alabama state mental hospitals.

REPORT ON PROGRESS



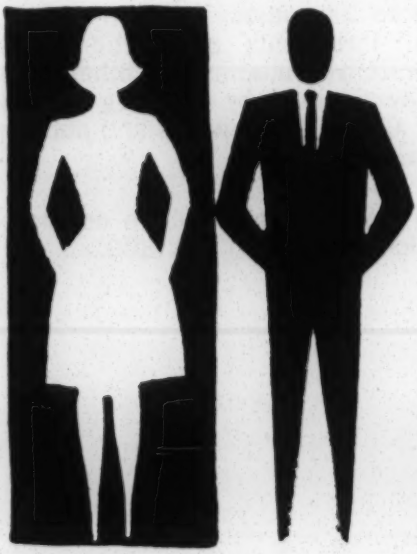
in 1966

on the

STATUS OF WOMEN

Third Annual Report of Interdepartmental Committee
and Citizens' Advisory Council on the Status of Women
December 31, 1966

EQUAL PAY
UNDER THE
FAIR LABOR STANDARDS ACT
AS AMENDED IN 1966



UNITED STATES DEPARTMENT OF LABOR
W. Willard Wirtz, Secretary

WAGE AND HOUR AND PUBLIC CONTRACTS DIVISIONS

WHPC Publication 1179 ★ Printed January 1967

This pamphlet is for general information and is not to be considered in the same light as official statements of position contained in interpretative bulletins and other such releases formally adopted by the Wage and Hour and Public Contracts Divisions and published in the Federal Register.

The interpretative bulletin on the equal pay provision is 29 CFR, Part 800.

For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 - Price 10 cents

INTRODUCTION

The Equal Pay Act of 1963 amended the Fair Labor Standards Act to require that men and women performing equal work must receive equal pay. The Fair Labor Standards Amendments of 1966 extended the Act's coverage to more workers and increased the minimum wage for employment already subject to the law. This pamphlet is intended to outline the types of jobs to which the equal pay provisions apply, what is meant by "equal pay" and "equal work," and what action can be taken by any person who has a question regarding the applicability of the equal pay standard.

JOBS TO WHICH THE EQUAL PAY STANDARD APPLIES

The equal pay provisions of the Fair Labor Standards Act apply in establishments where employees are subject to a minimum wage under the Act. The equal pay provisions apply generally to employees who are engaged in interstate commerce or in the production of goods for interstate commerce, and to other employees in certain enterprises so engaged.

These include, for example, most employees who work in manufacturing, processing, and distributing establishments; in the telephone, telegraph, radio, television, and transportation industries; in banks, insurance companies, and advertising agencies; in laundries and dry cleaning establishments; most hospitals and nursing homes; and most schools (both public and private); in the larger hotels, motels, restaurants; and other retail and service establishments.

Exemptions

Some employees who would otherwise be entitled to the benefits of the Fair Labor Standards Act are excluded by specific provisions.

Example.—Employees of local, State, or Federal Government agencies (except in hospital, nursing home, and school operations by State or political subdivisions) and employees defined by regulation as bona fide executive, administrative, and professional employees (including employees employed in the capacity of academic administrative personnel or teachers in schools) do not come under the Act.

Equal pay standard

The equal pay standard provides that employers may not pay employees of one sex wages at rates lower than are paid employees of the opposite sex, employed in the same establishment, for equal work on jobs requiring equal skill, effort, and responsibility which are performed under similar working conditions.

Equal pay is required for jobs of the same or closely related character, but not for jobs which substantially differ in their requirements. Minor or inconsequential differences in job content will not render the equal pay standard inapplicable.

Example.—The equal pay standard would apply to men and women tellers in a bank required to perform substantially the same work, even though there is variation in the types of accounts handled by each employee. Also, sales work of a similar nature is equal, for purposes of the equal pay provisions, even if performed by sales clerks in different departments of a retail store.

However, the equal pay standard does not prohibit differences in the wages paid men and women employed in substantially different jobs.

Example.—Different wages may be paid to male bookkeepers than to female inventory clerks.

The equal pay provisions *prohibit:*

- An employer from reducing the wage rate of an employee in order to eliminate a prohibited wage differential;

- A labor organization from causing or attempting to cause an employer to discriminate against an employee in violation of the equal pay provisions.

What is meant by wages?

Wages paid to an employee generally include *all payments* made to or on behalf of an employee as remuneration for employment, whether calculated on a time, piece, job, incentive, or other basis.

Example.—Overtime compensation, holiday pay, and vacation pay constitute remuneration for employment and are included as wages. Also, payments made by an employer to provide

insurance benefits such as hospital or health insurance to employees are deemed to be remuneration for employment within the meaning of the equal pay provisions.

Equality of jobs is determined by applying four tests

The equal pay provisions apply only to employees engaged in equal work on jobs the performance of which requires *equal skill, effort, and responsibility, and which are performed under similar working conditions.* All four tests must be met in order for the equal pay standard to apply.

In applying these tests, the broad remedial purposes of the equal pay standard must be taken into consideration. Thus, minor differences in the degree of skill, or effort, or responsibility would not make the equal pay provisions inapplicable. On the other hand, substantial differences in job content, such as those customarily associated with differences in wage levels when the jobs are performed by persons of one sex only, will ordinarily demonstrate that the jobs are not equal within the meaning of the Equal Pay Act.

The first test—"equal skill"

Skill includes such factors as experience, training, education, and ability. Skill has to do with the performance requirements of the jobs under consideration, and not with skills which employees may possess but which are not needed to perform the jobs.

Example.—In a machine shop, a male employee operates a particular type of punch press while a female employee operates a press which differs slightly in design. The operation of the two presses is the same in that the work is locked into place by the employee and the machine is activated by means of a lever. The two machines make different kinds of parts. The fact that the machines differ somewhat in design and that the parts turned out on them are different would not, in itself, result in a conclusion that unequal skill is involved in operating the two machines.

The second test—"equal effort"

Effort is concerned with the measurement of the physical or mental exertion needed for performance of a job.

Two jobs may require equal effort even though the effort may be exerted in different ways.

Example.—A male checker in a supermarket may spend part of his time stocking shelves, whereas a female checker spends part of her time doing work requiring greater dexterity, such as rearranging displays of spices or small items. Such differences in kind of effort would not justify a difference in wage rates.

Also, the occasional or sporadic performance of an activity which may require extra physical or mental exertion is not alone sufficient to justify a finding of unequal effort.

Example.—A bank employs several women and one man as tellers. The male teller occasionally carries large boxes of supplies which are too heavy for the female tellers to lift without first unpacking. The payment of a higher rate to the male employee because of such occasional heavy lifting would not be permitted, provided the equal pay provisions otherwise apply.

The third test—"equal responsibility"

Responsibility involves the extent to which an employer depends on the employee to perform his job as expected, with emphasis on the importance of the job obligation. If jobs are otherwise equal, the fact that there is a minor or insignificant difference in the degree of responsibility exercised by the employees does not suffice to justify a finding of inequality.

Example.—In a group of office employees performing jobs essentially alike, a man and woman are responsible for preparing the payroll. The man is assigned the job of checking time cards and compiling the payroll list. The woman is required to divide up cash and put the proper amounts into pay envelopes after drawing a payroll check. Although some of the employees' duties are occasionally dissimilar, the difference in the responsibility involved is insignificant.

The fourth test—"similar working conditions"

Generally, employees performing jobs in an establishment that require equal skill, effort, and responsibility are likely to be performing them under similar working conditions. Slight or inconsequential dissimilarities or the fact that the jobs are in different departments does not establish dissimilarity of working conditions.

Example.—Some employees of a repair shop do most of their work in the homes of customers, while other employees work exclusively inside the shop. In such a case, since the working conditions are substantially dissimilar, the equal pay provisions do not apply.

EXCEPTIONS TO EQUAL PAY STANDARD

Even though jobs performed by men and women require equal skill, effort, and responsibility and are performed under similar working conditions, there may be reasons other than sex for paying different wages to employees performing the equal jobs. Such differences in pay, which are in fact shown to be based on some factor other than sex, are not prohibited by the equal pay provisions.

Example.—The law does not prohibit differences in pay based on a seniority or merit system or a system established by the employer for measuring productivity.

Any system of payments based on an exception to the equal pay standard must be applied equally to employees of both sexes. Thus, when applied without distinction to employees of both sexes, shift differentials, incentive payments, production bonuses, performance, and longevity raises and the like will not result in violations of the equal pay provisions.

The following examples illustrate the application of the exception provisions to certain pay plans and practices:

- *Temporary reassignments.*—An employer temporarily reassigns a woman employee to perform more demanding work for which men are employed at a higher hourly wage rate than that paid for the duties of the woman worker's regular job classification. It is permissible for the employer to continue to pay the woman worker her customary lower rate, if her reassignment is in fact temporary. Generally, failure to pay the higher rate for a period longer than 1 month will raise questions as to whether the reassignment was in fact intended to be a temporary one.

- *Training programs.*—It is not a violation of the equal pay requirements where employees enrolled in a training program, in furtherance of their training, are temporarily performing equal work at unequal wage rates with non-

trainees of the opposite sex, provided the training program is bona fide and the rate paid to the employee in training status is paid regardless of sex.

NOTE.—In some establishments, differentials are paid to male employees because, traditionally, only men have been considered eligible for promotion to executive positions. In the absence of a bona fide training program, such a practice constitutes a discrimination based on sex and is a violation of the equal pay provisions where men and women are performing equal work.

THE EQUAL PAY STANDARD AND STATE LAW

No provision of the Fair Labor Standards Act justifies noncompliance with State or local laws establishing higher standards; nor does compliance with State or local laws excuse noncompliance with the Fair Labor Standards Act.

Example.—A State law relating to the employment of women provides for a minimum wage higher than that required under the Fair Labor Standards Act. Where the employer pays the higher State minimum wage to female employees as required by the State law, the higher rate must also be paid to male employees engaged in equal work or a violation of the equal pay provisions will result.

RECORDS

Employers subject to any of the provisions of the Fair Labor Standards Act have always been required to keep records on wages, hours, and other items listed in regulations issued under authority of the Secretary of Labor. No particular order or form of records is prescribed.

ADMINISTRATION

The Wage and Hour and Public Contracts Divisions administer the Fair Labor Standards Act, including the equal pay provisions. Authorized representatives of the Wage and Hour and Public Contracts Divisions may enter establishments, inspect records, interview employees, and investigate any facts necessary to determine whether any provision of the law has been violated. They advise employers of any changes which will aid in achieving and maintaining compliance with the law. Complaints, records, and other information ob-

tained from employers and employees are treated confidentially.

Wages withheld in violation of the equal pay provisions have the status of unpaid minimum wages or unpaid overtime compensation under the Fair Labor Standards Act. The following methods are provided for recovery of unpaid wages: The Divisions' Administrator may supervise payment of back wages and, in certain circumstances, the Secretary of Labor may bring suit for back pay upon the written request of the employee. The employee may sue for back pay and an additional sum, up to the amount of back pay, as liquidated damages, plus attorney's fees and court costs. The employee may not bring suit if he has been paid back wages under supervision of the Administrator, or if the Secretary has filed suit to collect the wages. The Secretary may also obtain a court injunction to restrain an employer from violating the law, including the unlawful withholding of proper compensation.

A 2-year statute of limitations applies to the recovery of unpaid wages, except in the case of willful violations, for which there is a 3-year statute of limitations.

SPECIAL NOTE

Whether any employee comes under the equal pay provisions of the Fair Labor Standards Act, and whether he is entitled to wages equal to those paid another employee, depend on the facts in each case. Information about the application of the law can be obtained by contacting the Wage and Hour and Public Contracts Divisions' nearest office. Give information on the kind of firm and what it does, with whom it does business, the jobs involved, method of pay, and any other details you think will help in replying to your question.

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To request any of the following publications simply *encircle* the number opposite the publication title, print your name and address, detach this sheet, and mail it to your nearest Wage and Hour office, as indicated on the preceding page. Personal or telephone requests may also be made.

1. The Fair Labor Standards Act, as amended.

2. Handy Reference Guide to the Fair Labor Standards Act.

3. Records, Part 516.

4. Equal Pay for Equal Work, Part 800.

5. Executive, Administrative, Professional, and Outside Salesman Exemption, Part 541.

6. General Coverage, Part 776.

7. Retailers of Goods or Services, Part 779.

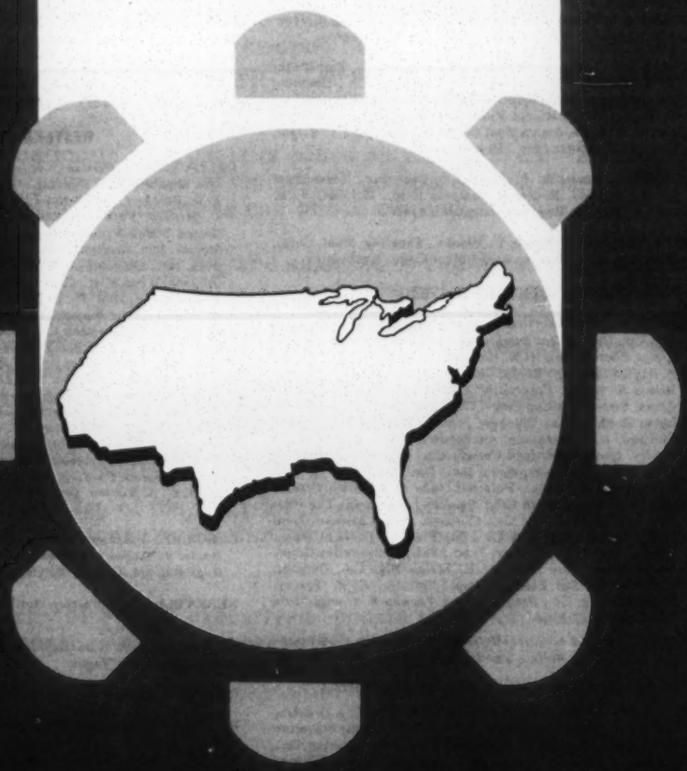
U.S. GOVERNMENT PRINTING OFFICE : 1967—O-246-121

APRIL 1967

SURVEY NO. 80

SEX & TITLE VII

Personnel Policies Forum®



BNA

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What Is The Personnel Policies Forum?

The Editors of The Bureau of National Affairs have invited representative personnel and industrial relations executives to become members of the 1965-66 Panel of the PERSONNEL POLICIES FORUM. These Panel members are top personnel officials in all types of companies, large and small, in all branches of industry and all sections of the country.

At regular intervals throughout the year BNA editors ask the members of the Panel to outline their policies and procedures on some important aspect of employment, industrial relations, and personnel problems. From these replies, the editors complete a survey report on the problem, showing prevailing practices, new wrinkles and ideas, and cross-section opinion from these top-ranking executives.

In many cases, the comments, suggestions, and discussions are reproduced in the words of the Panel members themselves. In effect, survey users are sitting around a table with these executives and getting their advice and experience on the major problems in this field facing all companies this year.

Results of each PERSONNEL POLICIES FORUM survey made during 1965-66 are printed in a special survey report which is sent, as part of the service, to users of these BNA labor reports:

Labor Relations Reporter; Labor Policy and Practice; Daily Labor Report; White Collar Report; Retail Labor Report; and Government Employee Relations Report.

The 1965-66 Panel

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SEX & TITLE VII

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INTRODUCTION

On July 2, 1965, the Equal Employment Opportunity Commission opened its doors and began policing employment discrimination based on race, color, religion, sex, or national origin. It was the first time the Federal Government had entered this area of employment regulation under statutory authority.

The prohibition against such employment discrimination is in Title VII of the Civil Rights Act of 1964, adopted after an extended debate in the Senate that lasted 534 hours, one minute, and 37 seconds. Most of this debate and the House and Senate Committee reports that preceded it was concerned with employment discrimination based on race. The ban on employment discrimination based on sex was inserted on the House floor by former Congressman Howard W. Smith (D., Va.).

As it has turned out, the sex-discrimination ban was a sleeper. Of the more than 15,000 charges of employment discrimination filed with the Equal Employment Opportunity Commission during its first two and one-half years of operations, more than 5,000 alleged employment discrimination based on sex.

So BNA editors decided that the subject of employment practices with respect to female employees was an appropriate one on which to question the personnel and industrial relations executives who comprise BNA's Personnel Policies Forum. The objective was to ascertain company practices with respect to wages and fringes, recruitment, selection, placement, and training of female workers.

The information in the report is based on replies from 78 executives, 55 from officials of "larger" companies and 23 from officials of "smaller" companies. A "larger" company is one with over 1,000 employees; a "smaller" company is one whose employees total 1,000 or less.

The members of the Forum are selected to reflect a cross-section of industry throughout the country so that the results of a survey may be considered representative. The representative nature of the present survey was impaired to a degree by the small number of responses. The number of responses was only a little more than half as many as the responses to an earlier survey on "The Negro and Title VII." Nevertheless, the responses that were received were informative and provide a useful guide to employment practices with respect to female workers.

Here are some of the highlights:

- The percentage of the work force represented by female employees among Forum companies responding to the questionnaire is smaller than the percentage of female employees in the country's total work force.

- A majority of Forum executives reports that their companies have not altered their recruiting practices with respect to female workers since the adoption of the Civil Rights Act of 1964.

• More than half of the female employees of about half of all Forum companies responding are engaged in clerical work.

• Forty-five percent of the Forum companies responding have an expressed policy of equal opportunity without regard to sex in the selection of executives. But only about one-third actually have female executives.

• More than one-third of the companies responding require the resignation of pregnant employees.

COMPOSITION OF THE WORK FORCE

What percentage of the total number of employees in Forum companies are female employees? Do unions representing employees of these companies spell out their support of nondiscrimination on the basis of sex in specific contract provisions? Do Forum executives consider the marital status of their female employees significant in hiring? What is the nature of the female work force? These and other questions were put to members of the panel.

Percentage of Women in Work Force

In 1965, according to Department of Labor Bulletin 290, 35 percent of all employed workers were women. Our Forum companies apparently employ a smaller percentage of women than that in the working population generally. Slightly more than half, 57.9 percent, of all Forum companies have work forces in which female employees account for less than 35 percent of the total. Moreover, there is a marked difference between "larger" and "smaller" companies in this respect. While 61.8 percent of large Forum companies employ a lower percentage of women than the percentage in the total work force, more than 80 percent of "smaller" Forum companies do so. Following is a breakdown of the percentage of women in the work force in Forum companies:

Percent of Women in the Work Force

	All Cos.	Larger	Smaller
0 to 10 percent women	30%	21%	53%
11 to 20 percent women	24	26	17
21 to 30 percent women	10	11	9
31 to 40 percent women	9	11	4
41 to 50 percent women	6	7	4
51 to 60 percent women	5	7	--
61 to 70 percent women	10	10	9
71 to 80 percent women	6	7	4
80 percent or more women	--	--	--

Most Forum companies, large and small, have work forces in which between 10 to 20 percent are women. Seventy percent of the smaller companies and 47 percent of the larger ones have work forces in which between zero and 20 percent are women.

No Company has a work force of more than 80 percent women. Only five Forum companies, four large and one small, employ between 71 and 80 percent women. The small company and two of the large companies employ most of their women in factory work. The other two large companies are department stores, which utilize their female employees as sales personnel.

Nondiscrimination Clause

Of the 35 Forum companies reporting they have union contracts, 27, or almost three-fourths, have a clause prohibiting discrimination based on sex. Of those companies with a nondiscrimination clause in their contract, only six (four large and two small) do not include sex as an area of discrimination.

Part-time Workers

A number of executives report that working hours, difficulty in finding baby-sitters, and other family responsibilities lead to problems in hiring women. The Department of Labor states on page 3 of its "1965

Handbook on Women Workers" that 21 percent of all unemployed women looking for jobs in 1964 were looking for part-time positions. Women applicants who are rejected for full-time positions because of the aforementioned difficulties conceivably would look for part-time employment if they knew the job market held openings of this type. Offering part-time employment would make constructive use of a presently untapped human resource and allow women to benefit industry as well as fulfill responsibilities of home, family, or school.

A substantial percentage of large companies, as compared with small companies, employ part-time workers. Thirty-six percent of Forum executives from large companies acknowledge hiring part-time workers, but only 17 percent of Forum executives from small companies do so.

Following are charts by sex, showing the percentage of large and small Forum companies which employ various percentages of part-time workers:

Percent of all Women Working Part-time

	All Cos.	Larger	Smaller
Less than 1 percent of all women	6%	7%	--%
1 to 4.9 percent of all women	56	65	--
5 to 9.9 percent of all women	13	7	50
10 to 14.9 percent of all women	6	7	--
15 to 19.9 percent of all women	--	--	--
20 to 24.9 percent of all women	--	--	--
25 to 29.9 percent of all women	--	--	--
30 to 34.9 percent of all women	6	--	50
35 to 39.9 percent of all women	13	14	--

Percent of Men Working Part-time

	All Cos.	Larger	Smaller
Less than 1 percent of all men	16%	14%	25%
1 to 4.9 percent of all men	50	58	25
5 to 9.9 percent of all men	11	7	25
10 to 14.9 percent of all men	5	7	--
15 to 19.9 percent of all men	6	--	25
20 to 24.9 percent of all men	--	--	--
25 to 29.9 percent of all men	--	--	--
30 to 34.9 percent of all men	--	--	--
35 to 39.9 percent of all men	--	--	--
40 to 44.9 percent of all men	6	7	--
45 to 49.9 percent of all men	6	7	--

Most Forum companies that hire part-time workers have between 1.0 and 4.9 percent of their employees working part-time; in none of the companies are part-time workers more than half of the work force. Of the companies employing part-time personnel, smaller companies hire more women for part-time jobs than do larger companies.

Policy Toward Marital Status

Only one of the companies responding to the questionnaire terminates women upon marriage, and it does so only if the employee marries a co-worker. The Peterbilt Motors Co., Newark, N.J., however, has a policy of terminating the employment of both male and female employees who marry fellow-workers.

Most companies express no particular preference with respect to hiring single versus married or divorced women. Only two smaller companies express concern:

Prefer married women. -- Henry Kleinholter, Personnel Manager, H. J. Scheirich Co., Louisville, Ky.

* * *

RECRUITMENT

Lack of skills and sufficient educational preparation are most often cited by Forum executives in response to the question: "What are some of the major problems involved in recruiting women?" Forty-four percent of the large company representatives and 22 percent of those from small companies express difficulty in locating female applicants with adequate backgrounds. But only 19 percent of all Forum companies which recruit at colleges, do so at women's colleges. Thirty-eight percent of them recruit at men's colleges and 44 percent of them recruit at co-ed colleges and universities.

The chart below shows the percentage of companies that reported recruiting at men's, womens, and co-ed colleges and universities. These categories are not mutually exclusive. A number of companies report that they recruit at colleges, but do not specify which kind. These companies have been included in computing the percentage of companies (larger, smaller, and all) recruiting at all colleges, but they are not included in determining percentages recruiting at specific types of schools.

Recruitment at Colleges

	All Cos.	Larger	Smaller
All Colleges	64%	78%	30%
Men's Colleges	38	49	43
Women's Colleges	19	15	--
Co-ed Colleges & Universities	44	49	100

None of the smaller Forum companies which recruit at colleges does so at women's schools, but all of them recruit at co-ed schools. Smaller companies generally have a more limited budget to expend on recruitment campaigns. But by recruiting at co-ed schools, they have a better chance of influencing both male and female students to apply for positions.

Use of Employment Agencies

Practically all Forum companies (94 percent of large companies and 83 percent of small ones) use employment agencies to recruit personnel. Of these, half of the large companies and 42 percent of the small companies take some type of action to insure that the agencies they use are not being discriminatory in their referrals. These actions take the form of either written notification of equal employment policy, or oral communication that either sex will be considered for the position.

Still others rely on the agency to assume the responsibility for ensuring equal opportunity:

Rely on judgment of Agency.--Lloyd N. Williams, Personnel Director, Magnet Mills Inc., Clinton, Tenn.

* * *

Jobs are defined and skills required indicated. Sex is not involved in the definition of the majority of them.--Fred Linton, Manager-Personnel Administration, Peerless Division, American Cement Corp., Detroit, Mich.

* * *

Have been told to refer anyone who appears to have technical qualifications.--Bernard O. Clair, Assistant Personnel Manager, Adolph Coors Co., Golden, Colo.

Problems in Recruiting Women

One in 10 Forum executives says he has no particular problems recruiting women. More small companies itemized difficulties than large ones.

Next to lack of skills and educational preparation, problems most often cited are availability for work during hours required and difficulty in obtaining care for children. Thirteen percent of all Forum companies (15 percent of the larger companies and 9 percent of the smaller) list both problems.

Other problems cited are: no female applicants -- 7 percent (8 percent of large companies and 4 percent of small ones); and seriousness and stability of women -- 4 percent (2 percent of large companies and 9 percent of small ones). Four percent of the larger Forum companies report that a woman's flexibility is often limited by the employment of her husband. One large company which left blank questions referring to job categories in which women are employed and the number of women holding executive positions, gave the following reason:

> Lack of Promotional opportunities.-- R. B. Wynne, Jr., Director of Industrial Relations, UMC Industries, Inc., St. Louis, Mo.

Policy Changes Since 1964

Asked if recruitment policies have changed since the passage of the 1964 Civil Rights Act, only 5 percent of all Forum companies report any change. A greater percentage of small companies (10 percent as compared with 4 percent for large companies) report a change.

Only two companies (both large) explain their policy changes. One has opened all job categories to whomever is qualified, and the other now specifically communicates its equal opportunity policy to recruitment sources.

Increase in Female Personnel Since 1964

Less than half (35 percent) of the small Forum company executives report that the percentage of women in their employ has increased since the passage of the Act. Only 5 percent of those reporting an increase say they have changed their recruitment policies. Among large Forum companies, the figure is even lower. Eight percent report an increase, and only one of the companies reports a change in its recruitment policy. Smaller companies average almost twice as much percentage increase in female personnel as larger companies. The small companies show an average increase of 14.2 percent, compared with an average increase of 7.2 percent in large companies.

PLACEMENT AND TRAINING

This survey would be incomplete without an examination of the percentage of women employed in various job categories. Traditionally, before the passage of the 1964 Civil Rights Act, women were employed primarily in clerical or factory positions. Has this changed? Are there certain positions from which women still are excluded? If so, what kind and why? Are women given an equal chance to train for executive positions? What kinds of training programs are available in Forum companies, and what percentage of women, as compared with men, take advantage of them?

Jobs Held By Women

In order to determine the percentage of women employed in various job categories, executives on the Panel were asked the percentage of women working in (1) factory operative positions, (2) service occupations, (3) clerical jobs, (4) sales, (5) technical or professional jobs, and (6) executive positions.

Following are two tables, one for manufacturing companies and the other for nonmanufacturing companies. The tables show the percentage of companies employing various percentages of women in the different job categories out of each company's total female work force. The horizontal figures indicate various percentages of women in the total female work force. The vertical column shows the different job categories. The percentages shown where the two columns intersect show the percentage of companies which employ that particular percentage of their female employees in the particular job category.

You will notice that the job category "Factory Operative" is shown on the chart for nonmanufacturers as well as manufacturers. This may seem a contradiction in terms, but there are a number of companies which do not consider themselves primarily manufacturers, but which nevertheless have a few duties which could be construed as "factory-type" work.

Percent of Women Holding Various Positions, Employed by Manufacturers

	Percent of All Women									
	0-10	11-20	21-30	31-40	41-50	51-60	61-70	71-80	81-90	91-100
Factory Operatives	10%	10%	6%	--%	13%	6%	--%	3%	10%	3%
Service	32	3	3	--	--	--	--	--	--	3
Clerical	10	10	3	3	16	--	10	3	10	29
Sales	13	--	--	3	--	--	--	--	--	--
Tech./Prof.	39	3	--	--	--	--	--	--	--	--
Exec.	35	--	--	--	--	--	--	--	--	--

Percent of Women Holding Various Positions, Employed by Nonmanufacturers

	Percent of All Women									
	0-10	11-20	21-30	31-40	41-50	51-60	61-70	71-80	81-90	91-100
Factory Operatives	--%	--%	--%	--%	--%	--%	3%	--%	--%	--%
Service	31	8	8	8	--	--	--	8	--	--
Clerical	8	23	23	--	--	--	--	--	23	23
Sales	8	--	--	--	15	8	8	--	8	--
Tech./Prof.	54	--	--	--	--	--	--	--	--	--
Exec.	54	8	--	--	--	--	--	--	--	--

Surprisingly, 3 percent of the companies which view themselves as nonmanufacturers employ women doing some type of factory work; and they employ more than half their female work force in this capacity. The highest percentage of manufacturers employ between 41 and 50 percent of their female employees in factory work.

More than half the women employed by about 50 percent of all Forum companies are in clerical positions. Fifty-two percent of the manufacturers and 46 percent of the nonmanufacturers employ more than half their female work force in clerical duties.

Women-Executives

A greater percentage of nonmanufacturers represented on the Panel place women in executive positions than do manufacturers. Thirty-five percent of the manufacturers, as compared with 54 percent of the nonmanufacturers, employ an average of four percent of their women workers as executives.

Following are comments of several Forum executives regarding placing women in supervisory positions:

> We continue to encounter a resistance to women assuming positions of responsibility. The business world is still a man's world. Most men whom I have queried on the subject confess they would be very uncomfortable working under the supervision of a woman. The male ego appears to suffer in such an environment. As a consequence we find many women in industry who have acquired a college degree unable to rise above a secretarial or clerical position. The exception to the rule appears to be in professional or technical occupations, i.e mathematicians, engineers, scientists, doctors etc. It may be industry is being short-sighted in not better utilizing the talents of female employees. -- J. M. Benning, Director of Personnel, Aerospace Corp., El Segundo, Calif.
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> * * *
>
> Have had difficulty finding women who want to supervise - particularly other women. -- large company.
>
> * * *
>
> Policy limited because of nature of banking business. --large company.
>
> * * *
>
> We don't exclude, we just have never considered one. --Charles E. Hacking, Industrial Relations Manager, Southwell Combing Co., No. Chelmsford, Mass.
>
> * * *

We have not, in the past, employed women with training and background for executive positions.--Max E. Thompson, Director of Personnel and Safety, The Empire District Electric Co., Joplin, Mo.

* * *

No application for such.--L. Stebbins, Industrial Relations-Personnel Manager, Beech-Nut Life Savers, Inc., San Jose, Calif.

Forty-five percent of all Forum companies (46 percent of the larger companies and 42 percent of the smaller ones) have an expressed policy of equal opportunity in the selection of executives. They state this in terms of (1) same chance for both sexes, (2) selection on basis of merit, (3) will consider any with proper qualifications, or (4) apply same qualifications to both sexes. One in 3 Forum companies which profess an equal opportunity policy has no female executives. Broken down into large and small companies, 21 percent of the large companies and 50 percent of the small companies with such a stated policy have no women in executive positions.

Limiting Job Categories

Very few Forum companies have restrictions in their union contracts limiting certain job categories to men only. Nine percent of the smaller companies have such clauses, and four percent of the larger ones do. Most of the companies that do limit job categories in their union contracts say the jobs involve heavy lifting and prohibitions are in accordance with state protective legislation.

Below is a table showing the percentage of companies giving various reasons for excluding women from certain job categories:

Reasons for Exclusion of Women from Certain Jobs

	All Cos.	Larger	Smaller
Weight	35%	30%	48%
Physical Limitations	23	22	26
State Laws	18	19	17

These specific job categories are listed by Forum executives as those in which they do not employ women: repairing, maintenance, shipping and receiving, building, mechanic, service-man, lineman, warehouse work, aircraft hangar, foundry, trucking, blasting, and meat-cutter. One company said:

Jobs where working conditions and type of work require men.--David E. Babcock, Vice President, Daytons Co., Minneapolis, Minn.

Costs of Hiring Women Workers

Panel members were asked if there are certain areas where it costs more money to employ women than to employ men, and about one of seven says there are. Not many delineate areas, but those that do include the following: insurance benefits for maternity, annuities due to greater life expectancy, transportation at night, facilities (rest-rooms, seating, etc.), training, requiring men to lift for women, and greater turn-over and absenteeism.

Training

Executives on the Panel were asked to indicate if their company conducts work-study, apprenticeship-training, supervisory-training, management or executive-training, tuition-aid, or scholarship programs. Those executives whose companies conduct such programs then were asked to indicate the percentage of men and women enrolled in each program. Below is a table showing the percentage of Forum companies which conduct the six training and development programs listed above, as well as the average percentage of women enrolled in each program.

Female Participation in Training Programs

	All Cos.	Larger	Smaller
Work-study program	15%	20%	4%
Percent of women enrolled	28	32	--
Apprenticeship-training program	33	40	17
Percent of women enrolled	7	8	4
Supervisory-training program	38	47	17
Percent of women enrolled	47	50	--
Management or executive training	32	38	17
Percent of women enrolled	20	17	--
Tuition-aid program	56	55	17
Percent of women enrolled	18	10	12
Scholarship-aid program	18	22	9
Percent of women enrolled	6	11	--

(The average percentage of women enrolled was computed only from those companies which gave statistics. Less than half of the companies reporting that they had training programs included a percentage break-down.)

Of those companies reporting statistics, small Forum companies have women enrolled only in apprenticeship-training and tuition-aid programs. The training program with the highest percentage of women in large Forum companies is supervisory-training. In small companies it is tuition-aid.

PERSONNEL POLICIES AND EMPLOYEE BENEFITS

What policy do Forum companies follow in regard to pregnant employees? Is employment terminated upon pregnancy? If so, why? How do sick leave provisions compare with those for maternity? What percentage of Forum companies have voluntary retirement? What are the age limits for voluntary and mandatory retirement, by sex? To answer these queries, Panel members were asked a series of questions. A discussion of their responses appears below.

Required Resignation

Slightly more than three in 10 Forum companies require the resignation of pregnant employees. More small companies require it than large ones. Thirty-nine percent of the smaller companies require resignation, while 29 percent of the larger companies do so. This seems to be due to the fact that large companies more easily can afford to hold a job open, while smaller companies with less staff, need every employee working:

> Because of the length of this type of leave, it is too indefinite to count on the employee's returning to work, and the vacancy must certainly be filled in the interim.--R. M. Erlanson, Anchor Brush Co., Montgomery, Ill.
>
> * * *
>
> Expected duration of absence would require hiring a replacement.--R. J. Sims, Director of Personnel, Fouke Fur Co., Greenville, S. C.
>
> * * *
>
> Break in continuity of work and uncertainty as to when or if they will resume work.--Robert M. Boyles, Director of Industrial Relations, Midwest Rubber Claiming Co., East St. Louis, Ill.
>
> * * *
>
> Salaried personnel are required to resign so that job can be offered on a permanent basis to replacement.--O. D. Mann, Director of Personnel, Good Humor Corp., Englewood Cliffs, N. J.

A number of companies give "health" reasons for requiring termination of employment. However, they do not clarify why an employee must resign rather than being placed on leave, thus losing seniority and other rights. If she should want to return to work, she is forced to re-apply.

> Physical protection to individual.--L. Stebbins, Industrial Relations-Personnel Manager, Beech-Nut Life Savers, Inc., San Jose, Calif.
>
> * * *

Possible injury to self.--R. H. Tenley, Personnel Manager, Penberthy Mfg. Co., Prophetstown, Ill.

* * *

When pregnancy affects attendance or causes illness.--V.C. Borleff, Manager of Industrial Relations, The Yoder Co., Cleveland, Ohio.

A few companies explained their policy in terms of liability and workmen's compensation if the pregnant worker should sustain injury while still in employ. While it is true that a pregnant woman is in a more delicate condition as a result of maternity, no such policy is extended to previous heart patients or employees who return to work after being sick, who might also be in a weakened condition.

Several companies assume that after giving birth most women will not return to work anyway, so they do not want to extend leave benefits, preferring to terminate employment immediately. For example:

Usually leave out of modesty and to assume duties as wife and mother in the household.--Gerald C. Burdick, Director of Industrial Relations, Mesta Machine Co., Pittsburgh, Pa.

A company which gives pregnant employees the benefit of the doubt and does not require resignation nevertheless reports:

All but one in the last 10 years has resigned to look after her family--approximately 10 in 10 years.--Charles E. Hacking, Industrial Relations Manager, Southwell Combing Co., No. Chelmsford, Mass.

Time Limits Re-Maternity

Approximately three in 10 of all Forum companies do not specify the particular month of pregnancy in which a woman must stop working. Small companies seem to be more flexible than large ones. Thirty-five percent of the smaller companies do not specify a particular month, while only 25 percent of the larger companies do not specify.

Following is a chart showing the month that various percentages of Forum companies report as the one in which a woman must stop working:

The Month of Pregnancy in Which a Woman Must Stop Work

	All Cos.	Larger	Smaller
No policy	28%	25%	35%
8th month	7	6	13
7th month	14	16	9
6th month	20	22	13
5th month	26	27	21
4th month	5	4	9

The greatest percentage of all companies, large and small, require work stoppage by the 5th month of pregnancy.

Fewer companies have a policy regarding the time which must elapse after birth before a woman may return to work than have a policy regarding work stoppage. Forty-two percent of all companies (40 percent of the larger and 45 percent of the small) do not specify a particular time.

Of those large companies which specify a certain period before which a new mother may return to work, most specify 6 weeks after birth. There is an approximately equal spread between one and three months for small companies. Below is a table showing the percentage of companies specifying different time periods:

Time Which Must Elapse Before a New Mother May Return to Work			
	All Cos.	Larger	Smaller
No Policy	42%	40%	45%
3 weeks	2	2	--
1 month	9	7	12
6 weeks	19	24	13
2 months	12	12	13
3 months	14	15	13
6 months	2	--	4

Three large company executives who report their companies do not specify a certain time period leave it up to the discretion of the employee's doctor.

Leave Provisions

Forum employers were asked whether their leave provisions specify a maximum time for maternity and for illness. Fewer companies specify a maximum time period for illness than do so for maternity. Sixty-six Forum companies specify a maximum time period for maternity while only 40 percent do so for illness. Following is a chart showing the various percentage of Forum companies specifying particular time periods for maternity and illness:

Leave Duration for Maternity and Illness						
	Maternity			Illness		
	All Cos.	Larger	Smaller	All Cos.	Larger	Smaller
No Policy	34%	35%	34%	60%	65%	52%
6 weeks	2	2	--	--	--	--
2 months	3	4	--	5	2	9
3 months	12	6	34	5	2	9
3½ months	--	--	--	2	--	4
4 months	5	6	--	3	5	--
4½ months	2	2	--	--	--	--
5 months	5	6	--	--	--	--
6 months	12	13	14	2	7	9
7 months	3	2	7	--	--	--
8 months	2	2	--	--	--	--
9 months	3	4	--	2	2	--
10 months	2	--	7	--	--	--
1 year	15	18	7	9	7	13
2 years	--	--	--	7	10	4

By and large, Forum companies allow more time for maternity than they do for illness. Large companies are more lenient in terms of maximum leave time allowed for maternity than are small ones. The most popular length of time for maternity seems to be one year, followed by six months and then 3 months. Two companies say length of leave depends on length of service.

Employers were asked whether employees who take sick or maternity leave are offered any guarantees upon their return. They were asked if returning employees are offered (1) the same job, (2) a similar job at the same salary, or (3) neither.

Guarantees Regarding Position & Salary After Maternity & Sick Leave

	Maternity			Illness		
	All Cos.	Larger	Smaller	All Cos.	Larger	Smaller
Same Job	23%	20%	29%	29%	29%	27%
Similar Job, Same Salary	42	40	47	41	42	41
Neither	35	40	36	30	29	32

With both types of leave, most Forum companies guarantee a returning employee the same or a similar job at the same salary, but slightly more do so for illness than for maternity. (70 percent as compared with 65 percent). As compared with small companies, the large ones appear to be less flexible in regard to maternity leave than in regard to sick leave. Forty percent of the large companies, as compared with 36 percent of the small ones, guarantee neither the same nor a similar job to a returning mother. However, 29 percent of the large companies, as compared with 32 percent of the small ones offer no guarantees to employees returning after illness.

Retirement

Employers were asked whether their companies have voluntary and mandatory retirement programs. If so, at what age is retirement for men and women in each program? In most cases, the retirement age is the same for men and women. The majority of companies allows employees to retire at age 55 and require retirement at age 65 (40 percent of all companies having voluntary retirement programs, and 81 percent of those having mandatory retirement). Four large companies have different retirement ages for men and women -- two for voluntary retirement and two for mandatory retirement. All four allow men to retire at 55 and require it at 65. But for the women, two allow women to retire at age 50 and 52 respectively, and two require retirement at age 62 and 64 respectively. All but one of these companies are manufacturers. A large percentage of companies do not have a voluntary retirement program (37 percent of the large ones and 41 percent of the small ones). Following is a chart showing the range of companies specifying various retirement ages:

Voluntary and Mandatory Retirement Ages in Forum Companies

	Voluntary			Mandatory		
	All Cos.	Larger	Smaller	All Cos.	Larger	Smaller
No Retirement Age	38%	37%	41%	11%	8%	17%
50 years	3	5	--	--	--	--
55 years	40	42	35	--	--	--
57 years	2	--	6	--	--	--
60 years	5	7	--	--	--	--
62 years	12	9	18	--	--	--
65 years	--	--	--	81	82	79
68 years	--	--	--	5	6	4
70 years	--	--	--	3	4	--

EMPLOYEE MORALE

Panel members were asked what kinds of problems arise when men and women work together and how they deal with them. Only 22 percent of all Forum companies admitted having any difficulties that arose out of men and women working together. Almost twice as many small companies report problems as large ones. Most companies just replied "the usual interaction" upon questioning as to the nature of their problems, but several gave more explicit answers. For example:

> The biggest problem is women working with women. There is a general tendency for more personal arguments among women than among men. --R. M. Erlanson, Anchor Brush Co., Montgomery, Ill.

* * *

Smart remarks by men.--R. H. Tenley, Personnel Manager, Penberthy Mfg. Co., Prophetstown, Ill.

* * *

Women usually want men bosses.--Hershel A. Phillips, Director of Labor Relations, Rexall Drug and Chemical Co., Los Angeles, Calif.

* * *

Most problems between two or more women.--W.H. Short, Personnel Manager, Stecher-Traung Lithograph Corp., Rochester, N.Y.

The majority of companies that elaborate on means of dealing with problems reports that they handle them on an individual basis. The company mentioning "smart remarks" by men gives a warning for the first offense and terminates the employee if the offense continues. Another executive reports:

When we find they are getting too friendly, we try to separate them into separate work areas.--Charles E. Hacking, Industrial Relations Manager, Southwell Combing Co., No. Chelmsford, Mass.

There is evidence that a number of employers consider women less stable workers than men. Employers were asked the percentage of their employees, by sex, who quit for various reasons. Although the responses were too few to permit the drawing of any general conclusions, one executive summarizes his experiences regarding the morale of female workers as follows:

The large majority of our employees are women. We have found them to be very capable machine operators. Our work, for the most part, is light enough that a woman can handle the job with little difficulty. One of our major problems recently has been the turnover of women on the night shift. This is a 'sign of the times.' As the economy picks up and the husbands of our married workers begin working more and more overtime, there is less need for the supplemental income of the wife, and a "baby sitter" problem develops as the husband is no longer able to be home to take care of the children while the wife is working. Most of the married women hired do not expect to be in the full time labor force. Many are working to make a down payment on a house, purchase a new appliance, put a child through school, etc. It is interesting to note, however, once the family has gotten used to the second income, it seems difficult for the woman to leave her employment, even after the initial objective for securing the job has been achieved. Recently, at one of our Ten Year Club meetings, a poll was taken among the women which revealed that well over half never anticipated that they would be in the labor force for such a long period of time. Most had originally planned to work for only two or three years. --R. M. Erlanson, Anchor Brush Co., Montgomery, Ill.

PREVIOUS PERSONNEL POLICIES FORUM SURVEYS IN PRINT

6. Employees' Financial Problems, August 1951
7. Christmas and Year-End Personnel Problems, October 1951
11. Executive Development, May 1952
12. Building Employee Morale, July 1952
13. Choosing Better Foremen, August 1952
15. Communications to Employees, November 1952
16. Fringe Benefits for Supervisors, January 1953
17. The Personnel-Industrial Relations Function, March 1953
20. The Older Worker, October 1953
21. Administration of Pension Plans, November 1953
22. Earnings of First-Line Supervisors, January 1954
23. Evaluating a Personnel-Industrial Relations Program, February 1954
24. Employment Stabilization, April 1954
25. Administration of Health and Welfare Plans, July 1954
26. Control of Absenteeism, September 1954
27. Computing Absenteeism Rates, October 1954
28. Wage-Salary Administration, November 1954
29. Company Safety Programs, February 1955
30. Unemployment Compensation Problems, May 1955
31. Supervisory Development: Part 1, July 1955
32. Supervisory Development: Part 2, September 1955
33. Automation, November 1955
34. Nonsupervisory Office Employees, December 1955
35. Downward Communications, February 1956
36. Military Leave Policies, May 1956
37. The Executive, July 1956
38. Medical Services for Employees, August 1956
39. Professional Employees, October 1956
40. Job Evaluation, December 1956
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Women at Work

Pressure Is Mounting On Concerns to End Sex Bias on the Job

They Sue Under Rights Act, Get Aid From Guidelines, But Say Progress Is Slow

Battling a Victorian Hang-Up

9/21/70

By JIM HYATT
Staff Reporter of THE WALL STREET JOURNAL

NEW LEBANON, Ohio—In many respects, Grace Easter is a typical working woman. She operates an electronic addressing machine for McCall Printing Co., where she has been employed for almost 20 years.

But there is a difference in her current job with McCall Printing. It had been open only to men until last April, when her company and her union settled her two-year-old suit against them.

For Mrs. Easter, it was a mixed victory. The new job raised her pay to $4.50 an hour from $3.33. But because she lacks seniority on this job, she will be among the first to go if the department lays off personnel. And the battle wasn't an easy one. Mrs. Easter says she was fought "tooth and nail" by the union, Local 199 of the International Brotherhood of Bookbinders. "All you have to say is 'women's rights,' and all hell breaks loose," she asserts. "Nobody hears another word you say."

Grace Easter isn't a women's liberation activist, but like thousands of other working women, she depends on her wages to maintain the standard of living she and her husband have established. In recent months women like Mrs. Easter have been successfully pressuring their employers to end what is perhaps the country's most entrenched prejudice: Sex discrimination on the job.

Sex Bias Termed "Pervasive"

"So widespread and pervasive are discriminatory practices against women that they have come to be regarded, more often than not, as normal," asserts the report of the Presidential Task Force on Women's Rights and Responsibilities.

Women are exerting leverage on a number of fronts. Some are suing for equal job rights under the Civil Rights Act of 1964 and the Equal Pay Act of 1963. "Lawsuits are mushrooming all over the place," says an attorney for General Motors, a defendant in a number of cases.

Crusaders against sex discrimination are hopeful that new guidelines for Federal contractors will prove even more effective than lawsuits. In mid-June one such crusading group, the National Organization for Women (NOW), filed 1,300 complaints of sex discrimination with the Office of Federal Contract Compliance. The charges of violating the Federal guidelines named most major companies, says a NOW official.

Another possible weapon for women is the hotly debated equal rights amendment to the Constitution, which would nullify most Federal and state laws that make distinctions on the basis of sex. Senate Majority Leader Mike Mansfield hopes to bring the House-passed amendment to the Senate floor soon. But Senators opposed to its sweeping nature can employ numerous procedural devices aimed at blocking action as Congress seeks to meet its mid-October adjournment target.

Focusing on the Offbeat

Opponents of sex bias say the problem is a

and state laws that make distinctions on the basis of sex. Senate Majority Leader Mike Mansfield hopes to bring the House-passed amendment to the Senate floor soon. But Senators opposed to its sweeping nature can employ numerous procedural devices aimed at blocking action as Congress seeks to meet its mid-October adjournment target.

Focusing on the Offbeat

Opponents of sex bias say the problem is a massive one and progress so far has been slow. They contend that the public still focuses on such offbeat types as women jockeys and fails to grasp the seriousness of sex bias.

"I have yet to see an employment program that makes a major effort to recruit women," says Shirley McCune, associate director of the American Association of University Women. A recent survey by the American Society for Personnel Administration found that 97% of the companies queried recruited at co-ed institutions. But while 63% of those firms recruited at men's colleges, only 30% did so at women's institutions.

Women's rights advocates insist that many employers refuse to acknowledge the importance of jobs to women. "Women no longer work for pin money; that's a Victorian hang-up," says Mary Miller, an official of the Ohio Commission on the Status of Women. "They work to pay off mortgages and educate their children. They don't all work just for a second TV set. Many work for their own fulfillment."

Low Pay

The critics also note that women's wages are falling further behind those of men and fret that the trend will continue. "Sex bias takes a greater economic toll than racial bias," asserts the Presidential task force. It points to Federal statistics showing that in 1968 both black and white women with some college education earned less than Negro men with eight years of education. The figures showed that women earned 58.2% of men's median income, compared with 60% in 1965 and 63.9% in 1955. One out of five full-time working women earned under $3,000 a year; less than 3% earned more than $10,000.

Such statistics, of course, don't begin to spell out the depth of sex discrimination—the jobs never offered, the lack of advancement, the lost contribution of women who give up in the job market. One woman who holds a master's degree in business administration recalls bitterly that a Dayton personnel manager said to her: "Women with an MBA degree either have something radically wrong with them or they're an easy mark. Which one are you?"

The mounting drive for job equality comes at a time when more women are seeking work because of economic pressure. The average woman today "has more responsibility and less ability to meet it," says Elizabeth Boyer, a Cleveland attorney and founder of Women's Equity Action League (WEAL). "Many men can't possibly afford to support their household without the wife working. It's a scandalous situation, and then everybody tries to pretend that women who feel the way I do are a bunch of male-hating freaks. Women PhDs are out fighting to get executive-secretary jobs along with high-school graduates, and there are no rungs on the ladder for the relief mother."

Almost 30.5 million women are working these days, about 38% of all workers, according to statistics compiled by the Women's Bu-

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Women at Work: Pressure Is Mounting To Wipe Out Sex Bias

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reau of the Labor Department. Three out of five working women are married; half are more than 39 years old.

The ban on sex discrimination in the Civil Rights Act of 1964 has become a significant weapon in the equality movement, even though the provision was added to the bill by opponents in an effort to defeat the entire measure.

In mid-July the Justice Department filed its first sex-bias suit under the act, charging Libbey-Owens-Ford Co., a Toledo-based glass maker, with discrimination against women. The United Glass and Ceramic Workers of North America and its Local 9 in Toledo also were named as defendants in the suit; there hasn't been a court ruling in the case yet.

The 1964 act set up the Equal Employment Opportunity Commission, which says about a third of its current complaints involve alleged sex discrimination. In the fiscal year ended last June 30, the agency found it had jurisdiction to handle 3,597 sex-bias complaints, up almost 34% from 2,689 complaints a year earlier.

The commission has refused to accept so-called protective laws of the states as an excuse for sex discrimination. Such laws often limit the number of hours women may work or the amount of weight a woman may lift on the job. Ohio's weight rule, for example, forbids women from holding jobs that require lifting more than 25 pounds. "Any three-year-old child weighs more than that," scoffs one critic. The state at present isn't enforcing the rule.

In another legal area, through investigations made possible by the Equal Pay Act, the Labor Department has pinpointed nearly 54,000 workers, most of them women, who it says have been underpaid more than $18.7 million since 1963. Over 170 lawsuits have been filed seeking recovery of this pay.

Potentially, however, one of the most effective weapons against sex discrimination could be the Labor Department's recently issued guidelines barring such bias by employers who hold Government contracts. The guidelines forbid distinctions based on sex in employment policies and denial of employment to women with young children unless the same policy exists for men. The rules also bar penalizing women because they require time away from work for childbearing. Further, the guidelines prohibit different retirement ages for men and women and refusal of a job to a qualified woman because of the state protective laws.

The original guidelines didn't require employers to set up specific programs to achieve compliance, but after stormy protests from women's groups last month Labor Secretary James Hodgson announced that the Government will use "goals and timetables" to win equal job opportunities.

Still, some women's groups assert the Government has taken a less than aggressive stance on the guidelines. Federal officials "won't do anything unless somebody sits in their office and raises hell," says one women's activist.

Women's Rights Bill Expected to Pass In Senate Today

3/22/72

By a WALL STREET JOURNAL Staff Reporter

WASHINGTON – In an evident change of heart, the 99% male Senate is moving toward approval today of a constitutional amendment guaranteeing equal rights for women.

Key test votes yesterday showed the Senate is taking the women's-rights crusade much more seriously than it did in 1970. Then, a similar equal-rights amendment died on the Senate floor because of a determined minority of opponents and a majority that didn't really care.

Once again, a House-approved constitutional declaration that "equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex" is before the Senate, and its supporters currently look very determined.

Opponents led by Sen. Sam Ervin (D., N.C.) were massively outgunned in yesterday's voting. The question is whether the House-approved language will be changed by the Senate, thus requiring the amendment's return to the House for negotiations and possible procedural tieups. Sen. Ervin proposed several changes, and all were beaten badly.

As in 1970, the fight centers on the somewhat unreal prospect that the constitutional amendment will require women to be drafted into military service and sent into combat. Both on philosophical and parliamentary grounds, the leading women's-rights organizations insist that women should indeed be subject to the same draft laws that men are. Sen. Ervin's proposed modifications would prevent that, and would also likely kill the constitutional amendment. In 1970, the Senate voted 36 to 33 to add an antidraft clause, and it was fatal.

Yesterday, the Senate voted 73 to 18 to keep the antidraft clause off, and 71 to 18 against a ban on women being sent into combat. Defeated 75 to 11 was another Ervin provision saying the amendment wouldn't nullify state laws protecting women, whic is exactly what the equal-rights crusaders want it to do in the belief that these laws are a cause of job discrimination.

The draft-and-combat question brought forth vivid oratory from Sen. Ervin, who warned against "drafting the daughters of America and sending them into battle, where their fair forms would be blasted into fragments by the bombs and shells of the enemy." Sen. Ervin, a serious constitutional scholar, doesn't seem really worried about that. He thinks the courts have plenty of power under the existing constitution to strike down discriminatory laws against women, and that a new amendment on the subject would be unnecessary clutter.

But the amendment has become something of a symbol of male regard for women's rights, and the senate's politicians are responding.

"I think we've survived the major hurdles," said Sen. Birch Bayh (D., Ind.), the amendment's main sponsor, after yesterday's voting. Another one could come today, however, if Sen. Ervin or some other Southerner decides to propose twinning the women's-rights amendment with another against school busing. Some of the most vigorous antibusers oppose this tactic, however.

When the women's amendment reaches a final vote, expected today, a two-thirds majority will be needed. Senate approval would send the proposed language to the states, and at least three-fourth of them must ratify it to make it the 27th amendment to the constitution.

* * *

PAY DIFFERENCES between men and women remain fairly constant, a study shows.

A Labor Department survey finds that in 1970 men's earnings exceeded women's by an average of 18% for 10 office and plant occupations, compared with 19% in 1960. Men at the lowest grade of tabulating-machine operator actually widened their advantage to 12% from 8% in 1960. But women registered some gains: The spread dropped to 15% from 20% for janitors, and to 17% from 23% for shipping packers.

Women fare better in firms where they have male occupational counterparts. Men's advantage dropped to 11% at concerns employing both men and women in an occupation, and rose to 22% in those employing only one sex at a job. But the department cautions its survey "neither denies nor affirms the existence of wage discrimination." One reason: Men normally have higher average earnings because of longer job tenure.

Men outearned women in every occupation checked, with advantages ranging from 8% for messengers to 34% for order clerks.

N-S-J * 12/21/71

~~THE CHECKOFF: After a Pay Board dis-~~

Sex Bias Already Barred by Constitution, Top Court Holds in Unanimous First Ruling

11/23/71

By LOUIS M. KOHLMEIER
Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON—The Supreme Court ruled for the first time that the Constitution bars laws that arbitrarily discriminate against women.

The unanimous decision may not completely satisfy women's liberationists who have been pressing for a new constitutional amendment to bar sex bias. But it unquestionably will strengthen some Senators' argument that a new amendment is unnecessary because women's rights already are sufficiently established in law.

In a second decision, the high court upheld the constitutionality of a section of the Social Security Act that requires a reduction in federal disability payments to persons also receiving benefits under a state workmen's compensation program. The four-to-three ruling, in which the court's conservative wing prevailed, was typical of a growing number of divisions in which the new conservative majority refuses to equate poverty with illegality.

Although the sex bias decision directly concerned only an obscure Idaho law and didn't even mention women's lib, the unanimous opinion was written by Chief Justice Warren E. Burger, and the court obviously regarded it as an important constitutional ruling.

Quotes 14th Amendment

The Chief Justice's opinion held that, under the "equal protection" clause of the 14th Amendment, states can't enact laws that give "arbitrary preference" to men over women. The amendment, ratified in 1868, was aimed principally against state laws that discriminated against Negroes, and the Supreme Court since 1954 has applied it numerous times in unanimous rulings to strike down state-imposed racial segregation in Southern schools.

The court applied the clause to women's rights in a case involving an Idaho law stating that when several equally qualified persons apply in a state court to administer an estate, "males must be preferred to females." The law doesn't preclude women administrators. It sets forth the order in which a deceased person's relatives are to be named administrator, giving preference, for instance, to a man's widow over his sons or brothers. But when a state court has discretion, as between the father and mother of the deceased, the law says a male is to be selected.

The Burger opinion held that the Idaho law differentiates between potential administrators solely on the basis of sex and that under the 14th Amendment such discrimination is unlawful when it is "wholly unrelated to the objective" of a statute.

The decision thus would seem to accomplish much of the purpose of the proposed constitutional amendment. As passed by the House, the new amendment would state: "Equality of rights under the law shall not be denied or abridged by the U.S. or any state on account of sex."

Senate Opposition Bloc

Senate opponents blocked passage of the amendment last year and are attempting to stop it again, mainly with the argument that women's rights already are sufficiently established in law, in the 14th Amendment and in the 1964 Civil Rights Act, which bars sex discrimination in employment. Yesterday, the opposition in the Senate hailed the Supreme Court decision as evidence that a new amendment is unnecessary.

But the women's lib groups aren't expected to be easily convinced. The decision wasn't a sweeping injunction against all laws that may impinge on equal rights for women. It spoke only of "arbitrary" discrimination, without defining the term. Moreover, women's lib advocates might be disturbed when they read a paragraph where the Chief Justice noted in passing that although the high court has applied the 14th Amendment to equality of rights in other areas of the law, it also has consistently held that states still have some leeway to "treat different classes of persons in different ways."

While the decision marked the first time the high court has struck down a state law as unconstitutionally discriminating on the basis of sex, constitutional authorities said the decision wasn't really a breakthrough in legal theory. They said the sex-bias ruling was hinted at in decisions going back to the 1940s, and also noted that the court recently has upheld sex discrimination claims under the 1964 Civil Rights Act.

Due Process Guarantee

In the second case, the reduction of Social Security payments to those also receiving workmen's compensation was challenged on the ground that as other Social Security beneficiaries aren't similarly penalized, the Social Security Act allegedly violates the Fifth Amendment's guarantee of due process of law. The court's conservative wing held that those penalized by the act aren't denied their constitutional rights.

The section of the act at issue was intended by Congress to reduce overlapping of federal and state programs of payments for disabled workers. Under the federal law, Social Security payments to beneficiaries of workmen's compensation are reduced by a formula that limits total benefits to 80% of the employe's average earnings prior to his disability. The question wasn't whether Congress could reduce such federal payments, but rather whether it was constitutional to reduce them for those receiving state compensation while at the same time not reducing Social Security payments of workers receiving disability benefits of other kinds.

The high court majority that upheld the constitutionality of the provision consisted of Chief Justice Burger and Justice Harry Blackmun, the two Nixon appointees, and Justices Potter Stewart and Byron White. Justices Stewart and White frequently vote with the conservative Nixon appointees. The dissenters were the court's remaining liberals, Justices William O. Douglas, Thurgood Marshall and William Brennan.

The majority opinion, by Justice Stewart, reversed a lower court decision that struck down the act's reduction in Social Security payments.

Expectant Mothers

Women Employes Seek Disability Coverage During Pregnancy Leave

They Also Push for Improved Insurance, Old Jobs Back; Many Hurdles, Some Gains

12/1/77

'Paternity Leave' for Papas?

JAMES C. HYATT
Staff Reporter of THE WALL STREET JOURNAL

Brian Smith doesn't look like the kind of kid to stir up a protest. At age 11 months, he's more engrossed in pulling himself up in his playpen than in pulling down established corporate custom.

But when Brian was born, his mother had to quit work without pay. She lost about $1,000 in wages, and she didn't like it. So 27-year-old Alberta Smith of Roanoke, Va., joined six other women workers and the International Union of Electrical Workers to sue General Electric Co. over policies at GE's Salem assembly plant. They charge that the company shows sex bias by refusing disability pay in maternity cases. "If a man hurt his finger, he'd get paid weekly disability benefits," Mrs. Smith complains.

As the challenge to GE indicates, women workers are taking up the cause of "maternity lib." They want to choose, without interference from the boss, when they'll quit work to have a baby and when they'll return. They want disability pay while unable to work. They seek more generous employer contributions for insurance covering their doctor and hospital bills. And they don't want an argument about getting their old job back when they return to work.

The Pregnant Captain

The battle rages on several fronts:

—In courtrooms, employers including Du Pont and National Can Corp. face government lawsuits alleging bias: Du Pont is accused on disability benefits, National Can on leave policies. Federal appeals courts have overturned leave policies in Ohio and Virginia schools, which required women to quit work early in their pregnancies. And an Air Force captain who became pregnant is asking the Supreme Court to reverse her discharge from the service.

—In union complaints to state and federal anti-bias agencies, such big companies as Westinghouse Electric, AT&T and General Motors are being accused of discrimination; many complaints assert that sick-leave and disability benefits are available to men for almost any reason but that maternity coverage for women is barred.

—In bargaining sessions, unions and women workers are pushing for improved maternity leave, disability pay and other benefits. Under such pressure, Polaroid Corp., IBM and Cummins Engine Co. have all recently liberalized policies; among others, Cummins now makes disability payments in maternity cases. And many other firms are reviewing their treatment of pregnant workers.

"Maternity lib" enjoys support from many women's organizations. Groups ranging from the National Organization for Women (NOW) to the Business and Professional Women's Clubs to a Catholic antiabortion group endorsed broader maternity benefits in a Wisconsin hearing this year.

Much Opposition

But to the amazement of many women, the issue seems to generate much more business opposition than do demands for equal pay and equal job opportunities. "This is the hottest issue confronting personnel men these days," asserts an official of the American Society for Personnel Administration. An actuary for a leading insurance firm adds, "This is a very emotional question."

Just the thought of paying for maternity time-off repels some bosses. "There's a distinct difference between maternity and sickness, although that's almost heresy as far as the Equal Employment Opportunity Commission is concerned," says James W. Hoose, director of industrial relations at Michigan Seamless Tube Co. "To pay a woman a salary during that period, when maternity is a matter of her choice, grates a little bit."

(Mrs. Smith, the GE worker, doesn't agree that maternity is purely a matter of choice. "Nobody is going out having babies to get a couple of pennies," she says. "Even with birth-control pills, women do get pregnant.")

And some employers worry that maternity disability benefits may be abused. They fear that doctors may be overly generous in certifying that a new mother is physically unable to return to work. Or they foresee that women will collect maternity disability checks and then quit work. "I'd imagine a number of employers would be looking closer at hiring women who've gone through the menopause," says one personnel man.

"Temporary Disabilities"

Much of the pressure for change comes from the Equal Employment Opportunity Commission in Washington. This four-man, one-woman commission takes the position that any employment policy ought to apply equally to men and women. To provide for a male leg broken in a skiing accident while ignoring a temporarily disabled pregnant woman is absurd and unfair, according to the EEOC. In guidelines issued last spring, it said pregnancy isn't a valid basis for refusing to hire, for discharging, laying off or denying promotions to women. For job purposes, the commission added, pregnancy, miscarriage, abortion, childbirth and recovery are "temporary disabilities and should be treated as such." The guidelines don't have the force of law, but the Supreme Court has indicated that it gives "great deference" to such administrative interpretations.

For employers, disability payments cause the deepest concern—and greatest potential cost. Companies often pay workers a percentage of their salary—70% is typical—when they're sick or injured and off the job. But most disability plans exclude or limit coverage for maternity. Even a generous plan may provide up to 26 weeks of disability pay for most injuries or illnesses, but only six weeks for maternity.

The cost of maternity disability benefits, of

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Expectant Mothers: Pregnant Workers Seek More Benefits

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course, depends on the number and age of women workers, the number of babies they have and the length of time that new mothers stay off the job. Adding six weeks of maternity coverage to a typical disability plan costs an extra 10%, according to an official of Martin E. Segal Co., employe-benefit consultants. But one actuary estimates that in a group more than half female, maternity disability coverage lasting 26 weeks could increase premiums 80%.

General Electric estimates that providing up to 26 weeks of maternity disability payments could cost $4 million to $12 million a year, depending on actual usage; the company has more than 100,000 female workers. GE now pays up to 26 weeks of disability benefits at 60% of a worker's wage, up to a maximum of $150 a week, but it excludes maternity.

Teachers' Suits

Perhaps significantly, the lawsuit against GE is pending before U.S. District Judge Robert R. Merhige Jr., who last year ruled that the Chesterfield County, Va., school board couldn't require a teacher to quit after the fifth month of pregnancy; an appeals court upheld his decision. In a similar case this summer, two teachers won an appeals court finding that the Cleveland school system's maternity-leave policy discriminated against women. Pregnant teachers were required to take an unpaid leave five months before the birth of a child, and they couldn't return to work until the first school term after the child was three months old. Both courts said they found no medical justification for the rules.

Outside the courts, equal-rights agencies are seeing an increasing number of maternity-related cases. Leave policies have been attacked in charges filed by the Communications Workers against AT&T, by the International Union of Electrical Workers against Westinghouse, and by the United Auto Workers against General Motors, Ford and Chrysler.

Under all this pressure, many employers are softening up on motherhood. A recent Prentice-Hall survey of 108 companies found more than half at least considering new policies as a result of the EEOC guidelines. A 1965 survey had found only one firm in five letting a pregnant employe decide when to quit working; the latest poll found six out of 10 firms leaving the decision to the worker and her physician.

Recently, National Broadcasting Co. dropped a policy requiring a pregnant woman to quit in the seventh month and stay out three months after delivery. "Now she can go to the hospital right from work as long as the doctor approves," a spokesman says. "And if she can return the week after she delivers, terrific."

Disability Benefits

What's more important, more employers are offering disability benefits in maternity cases. Last year Cummins Engine made pregnancy a temporary disability for salaried women, and union contracts negotiated this year have adopted the same change for other women employed by Cummins. The disability payments amount to "a couple of weeks at most in an uncomplicated pregnancy," an official says.

Just recently, the Arma division of Ambac Industries Inc. in Garden City, N.Y., proposed changing union contracts to include up to 26 weeks of maternity disability benefits. "We know the requirements relating to women are becoming more strict," says Mel Stebbins, manager of employe relations.

Such changes won't be enough to satisfy all the "maternity lib" demands. Pressure is expected, too, for bolder innovations, such as expansion of employer-paid hospital insurance to include maternity care for unmarried women. The EEOC guidelines have weakened corporate resistance to this step. In August, Blue Cross of Northeast Ohio offered holders of group policies a rider for single-person maternity coverage. "A dozen groups have enrolled," an official reports. "Companies think they're going to be under the gun eventually, and they're getting an early jump."

Other possible pattern-setters can be glimpsed now. The Delevan division of American Precision Industries, in East Aurora, N.Y., last December negotiated a liberalized leave policy for mothers of newly adopted children. The policy permits a six-months leave, without pay and without loss of seniority, when a child is adopted; previously, only a one-month leave was permitted.

And in current contract talks between the professional staff and City University of New York, the university has proposed formal leave policies for faculty members that could include paid "paternity leave" for new papas needed at home.

Medenco Plans Texas Hospital

HOUSTON—Medenco Inc. said it signed a letter of intent to build and operate a women's and children's specialty hospital at Odessa, Texas.

The hospital, to contain about 100 beds, will be the first of its kind in the area, the company said. It will be owned jointly by Medenco and a group of 13 local physicians.

The new facility will cost about $3 million. Construction is to start in the first quarter of 1973 on a site near the downtown section of the city. Completion is slated for the summer of 1974.